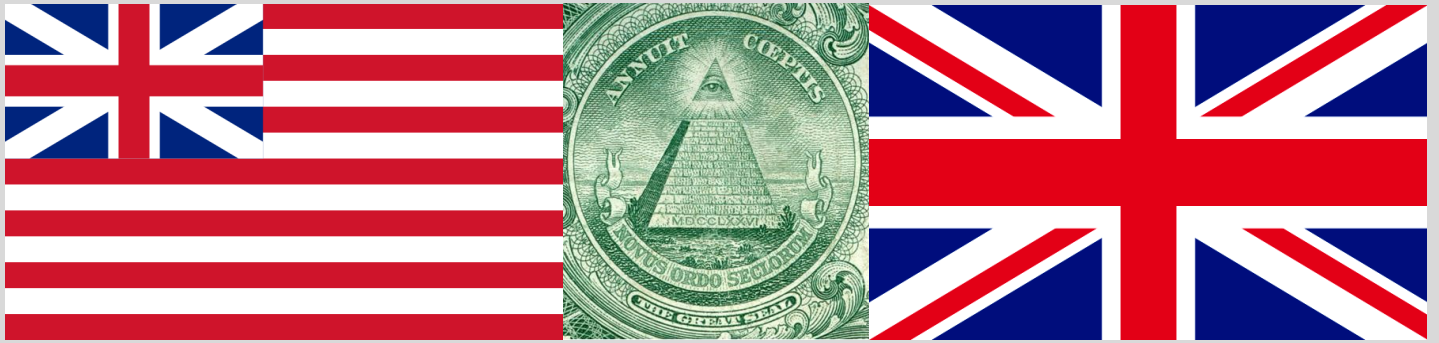


Bank of the United States: A Peculiar Institution?



By William P. Litynski

From the Grassy Knoll in Washington, D.C.: Lone Gunman or Patsy?

The Attempted Assassination of American President
Andrew Jackson on Capitol Hill on January 30, 1835



“I’m just a patsy!”: Richard Lawrence, an unemployed house-painter from England and a “lone gunman”, attempts to assassinate U.S. President Andrew Jackson at the entrance of the U.S. Capitol in Washington, D.C. on **January 30, 1835**. **The national debt was paid in full on January 8, 1835**, just 22 days before the attempted assassination on Andrew Jackson. Congress passed the Second Coinage Act on June 28, 1834. The Panic of 1837 occurred on May 10, 1837 just after the Second Bank of the United States in Philadelphia became a private bank on January 1, 1837. Andrew Jackson is the only president ever to preside over the virtual elimination of America’s national debt. America’s national debt has exceeded \$17 trillion in 2013.

“My dear sir, I have to thank you for four letters, all very interesting & very welcome. The last only requires any answer & that I will give very explicitly. You may rely upon it that the Bank has taken its final course and that it will be neither frightened nor cajoled from its duty by any small drivelling about relief to the country. All that you have heard on that subject from New York is wholly without foundation. The relief, to be useful or permanent, must come from Congress & from Congress alone. If that body will do its duty, relief will come if not, the Bank feels no vocation to redress the wrongs inflicted by these miserable people. Rely upon that. **This worthy President thinks that because he has scalped Indians and imprisoned Judges, he is to have his way with the Bank. He is mistaken** and he may as well send at once and engage lodgings in Arabia . . .”

– Nicholas Biddle (President of the Second Bank of the United States), in a letter to Joseph Hopkinson (Judge of the United States District Court for the Eastern District of Pennsylvania) on February 21, 1834

**Excerpts of President Andrew Jackson's Farewell Address Regarding the Bank of the United States
(March 4, 1837)**



Andrew Jackson

“Recent events have proved that the paper-money system of this country may be used as an engine to undermine your free institutions, and that those who desire to engross all power in the hands of the few and to govern by corruption or force are aware of its power and prepared to employ it. Your banks now furnish your only circulating medium, and money is plenty or scarce according to the quantity of notes issued by them. While they have capitals not greatly disproportioned to each other, they are competitors in business, and no one of them can exercise dominion over the rest; and although in the present state of the currency these banks may and do operate injuriously upon the habits of business, the pecuniary concerns, and the moral tone of society, yet, from their number and dispersed situation, they can not combine for the purposes of political influence, and whatever may be the dispositions of some of them their power of mischief must necessarily be confined to a narrow space and felt only in their immediate neighborhoods.

But when the charter for the Bank of the United States was obtained from Congress it perfected the schemes of the paper system and gave to its advocates the position they have struggled to obtain from the commencement of the Federal Government to the present hour. The immense capital and peculiar privileges bestowed upon it enabled it to exercise despotic sway over the other banks in every part of the country. **From its superior strength it could seriously injure, if not destroy, the business of any one of them which might incur its resentment; and it openly claimed for itself the power of regulating the currency throughout the United States. In other words, it asserted (and it undoubtedly possessed) the power to make money plenty or scarce at its pleasure, at any time and in any quarter of the Union, by controlling the issues of other banks and permitting an expansion or compelling a general contraction of the circulating medium, according to its own will.** The other banking institutions were sensible of its strength, and they soon generally became its obedient instruments, ready at all times to execute its mandates; and with the banks necessarily went also that numerous class of persons in our commercial cities who depend altogether on bank credits for their solvency and means of business, and who are therefore obliged, for their own safety, to propitiate the favor of the money power by distinguished zeal and devotion in its service. The result of the ill-advised legislation which established this great monopoly was to concentrate the whole moneyed power of the Union, with its boundless means of corruption and its numerous dependents, under the direction and command of one acknowledged head, thus organizing this particular interest as one body and securing to it unity and concert of action throughout the United States, and enabling it to bring forward upon any occasion its entire and undivided strength to support or defeat any measure of the Government. In the hands of this formidable power, thus perfectly organized, was also placed unlimited dominion over the amount of the circulating medium, giving it the power to regulate the value of property and the fruits of labor in every quarter of the Union, and to bestow prosperity or bring ruin upon any city or section of the country as might best comport with its own interest or policy.

We are not left to conjecture how the moneyed power, thus organized and with such a weapon in its hands, would be likely to use it. **The distress and alarm which pervaded and agitated the whole country when the Bank of the United States waged war upon the people in order to compel them to submit to its demands can not yet be forgotten. The ruthless and unsparing temper with which whole cities and communities were oppressed, individuals impoverished and ruined, and a scene of cheerful prosperity suddenly changed into one of gloom and despondency ought to be indelibly impressed on the memory of the people of the United States.** If such was its power in a time of peace, what would it not have been in a season of war, with an enemy at your doors? No nation but the freemen of the United States could have come out victorious from such a contest; yet, if you had not conquered, the Government would have passed from the hands of the many to the hands of the few, and this organized money power from its secret conclave would have dictated the choice of your highest officers and compelled you to make peace or war, as best suited their own wishes. The forms of your Government might for a time have remained, but its living spirit would have departed from it.

The distress and sufferings inflicted on the people by the bank are some of the fruits of that system of policy which is continually striving to enlarge the authority of the Federal Government beyond the limits fixed by the Constitution. The powers enumerated in that instrument do not confer on Congress the right to establish such a corporation as the Bank of the United States, and the evil consequences which followed may warn us of the danger of departing from the true rule of construction and of permitting temporary circumstances or the hope of better promoting the public welfare to influence in any degree our decisions upon the extent of the authority of the General Government. Let us abide by the Constitution as it is written, or amend it in the constitutional mode if it is found to be defective.

The severe lessons of experience will, I doubt not, be sufficient to prevent Congress from again chartering such a monopoly, even if the Constitution did not present an insuperable objection to it. But you must remember, my fellow-citizens, that **eternal vigilance by the people is the price of liberty, and that you must pay the price if you wish to secure the blessing. It behooves you, therefore, to be watchful in your States as well as in the Federal Government.** The power which the moneyed interest can exercise, when concentrated under a single head and with our present system of currency, was sufficiently demonstrated in the struggle made by the Bank of the United States. Defeated in the General Government, the same class of intriguers and politicians will now resort to the States and endeavor to obtain there the same organization which they failed to perpetuate in the Union; and with specious and deceitful plans of public advantages and State interests and State pride they will endeavor to establish in the different States one moneyed institution with overgrown capital and exclusive privileges sufficient to enable it to control the operations of the other banks. Such an institution will be pregnant with the same evils produced by the Bank of the United States, although its sphere of action is more confined, and in the State in which it is chartered the money power will be able to embody its whole strength and to move together with undivided force to accomplish any object it may wish to attain. You have already had abundant evidence of its power to inflict injury upon the agricultural, mechanical, and laboring classes of society, and over those whose engagements in trade or speculation render them dependent on bank facilities the dominion of the State monopoly will be absolute and their obedience unlimited. With such a bank and a paper currency the money power would in a few years govern the State and control its measures, and if a sufficient number of States can be induced to create such establishments the time will soon come when it will again take the field against the United States and succeed in perfecting and perpetuating its organization by a charter from Congress.

It is one of the serious evils of our present system of banking that it enables one class of society--and that by no means a numerous one--by its control over the currency, to act injuriously upon the interests of all the others and to exercise more than its just proportion of influence in political affairs. The agricultural, the mechanical, and the laboring classes have little or no share in the direction of the great moneyed corporations, and from their habits and the nature of their pursuits they are incapable of forming extensive combinations to act together with united force. Such concert of action may sometimes be produced in a single city or in a small district of country by means of personal communications with each other, but they have no regular or active correspondence with those who are engaged in similar pursuits in distant places; they have but little patronage to give to the press, and exercise but a small share of influence over it; they have no crowd of dependents about them who hope to grow rich without labor by their countenance and favor, and who are therefore always ready to execute their wishes. The planter, the farmer, the mechanic, and the laborer all know that their success depends upon their own industry and economy, and that they must not expect to become suddenly rich by the fruits of their toil. Yet these classes of society form the great body of the people of the United States; they are the bone and sinew of the country--men who love liberty and desire nothing but equal rights and equal laws, and who, moreover, hold the great mass of our national wealth, although it is distributed in moderate amounts among the millions of freemen who possess it. But with overwhelming numbers and wealth on their side they are in constant danger of losing their fair influence in the Government, and with difficulty maintain their just rights against the incessant efforts daily made to encroach upon them. The mischief springs from the power which the moneyed interest derives from a paper currency which they are able to control, from the multitude of corporations with exclusive privileges which they have succeeded in obtaining in the different States, and which are employed altogether for their benefit; and **unless you become more watchful in your States and check this spirit of monopoly and thirst for exclusive privileges you will in the end find that the most important powers of Government have been given or bartered away, and the control over your dearest interests has passed into the hands of these corporations.**"

“The atmosphere was growing tense a fortnight later when, on January 30, 1835, General Jackson visited the House chamber to attend funeral services for the late Representative Warren R. Davis of South Carolina. The burden of the chaplain’s sermon was that life is uncertain, particularly for the aged. “There sat the gray-haired president,” wrote an English visitor, Harriet Martineau, “looking scarcely able to go through this ceremonial.” The discourse finished, he filed past the casket and with the Cabinet descended to the rotunda of the Capitol. A stranger of good appearance, his face covered by a thick black beard, was standing six feet away. No one noticed him draw the small, bright pistol he aimed at the Executive, but, as he pressed the trigger, the report rang through the stone chamber “like a rifle shot.” Calmly the man produced another pistol. Jackson was one of the first to realize what was happening. Clubbing his cane he started for the man. “Crack!” went the second weapon. Old Hickory lunged at his assailant, but a young army officer reached the man first. The President was unharmed. Only the caps of the pistols had exploded, the charges failing to go off, although the weapons had been properly loaded “with fine glazed duelling powder and ball.” Jack Donelson recapped one and squeezed the trigger. It fired perfectly. An expert on small arms calculated that the chance of two successive misfires was one in one hundred and twenty-five thousand. Rushing to the White House to congratulate the President on his narrowest escape from death, Martin Van Buren found him with the Donelson children in his lap, talking of something else to Major General Winfield Scott. The assailant said he was Richard Lawrence and that Jackson had killed his father. When it developed that Lawrence was an Englishman whose parents had never been in America, the prisoner described himself as the heir to the British crown. He said that he wanted to put General Jackson out of the way in order to strengthen his claims to the throne. When the prisoner was committed to a lunatic asylum, partisans on both sides objected to that undramatic disposition of the case, Frank Blair hinting that Lawrence was a tool of Jackson’s enemies and Duff Green that the affair had been devised to create popular sympathy for the President. It did create sympathy for him, John C. Calhoun detaining the Senate with a denial of complicity, and John Quincy Adams proclaiming his allegiance on the floor of the House.”

– *The Life of Andrew Jackson* by Marquis James, Part Two: Portrait of a President, Book Five: The “Reign”, Chapter XXXVIII (The Etiquette of Collecting Twenty-five Million Francs), p. 685-686

“More fortunate in the field of public finance, General Jackson was able seven days later, on January 8 [, 1835], to pay the final installment of the national debt. Owing no one and with a surplus in its Treasury, this Government enjoyed a fiscal standing unique in the history of the modern world. The favorable balance showed every indication of increasing, for in eight months the country had passed from a depression to a state of prosperity, with visions of overflowing abundance which French war clouds failed to dispel. In the spring of 1835 the march of plenty crossed the line into the green pastures of speculation. The impetus came in part from a speculative wave in Europe, in part from the momentum of over rapid recovery from the Biddle panic, in part from the Treasury surplus creating an excess of loanable funds in the custody of the “pet” banks. The phenomena of inflation began to appear. New state banks were chartered by the score, most of them bidding for a share of the Government deposits, many of them getting it, and all printing their own money. Bad money drives out good. “Jackson’s yellow boys,” the gold pieces minted in 1834, vanished into the hiding places of the thrifty who knew that gold could be spent any day but were less certain of the current flood of paper. Bank notes flew from hand to hand in fantastic transactions of purchase and sale.”

– *The Life of Andrew Jackson* by Marquis James, Part Two: Portrait of a President, Book Five: The “Reign”, Chapter XXXVIII (The Etiquette of Collecting Twenty-five Million Francs), p. 690

“The President aims at the destruction of the Bank.”

– Nicholas Biddle, President of the Bank of the United States

“I am willing to see the charter expire without providing any substitute for the present bank. I am willing to see the currency of the federal government left to the hard money mentioned and intended in the constitution.”

– Andrew Jackson, President of the United States

“The remainder of the message contained happier information. The best of it concerned the national debt. As of January 1, 1835, after satisfying all the government’s operating obligations, the national debt would be totally extinguished and the Treasury would carry a balance of \$440,000. No national debt. Not a cent owed to anyone. What an extraordinary accomplishment. What a proud boast. As Roger B. Taney had said to Jackson just a few months earlier, “it is I believe the first time in the history of nations that a large public debt has been entirely extinguished.” Jackson himself could not help crowing about this accomplishment, although he rightly credited it to the industry and enterprise of the American people, despite the rude financial shock of last winter inflicted by Nicholas Biddle.”

– *Andrew Jackson and the Course of American Democracy, 1833-1845*, Volume III by Robert V. Remini, Chapter 14, p. 218-219

“ANDREW JACKSON paid his hotel bill at the Rip Raps with a personal check for three hundred and ninety-five dollars and seventy-five cents on Mr. Biddle's bank, and on August 23, 1833, he was at his desk in the White House after an absence of twenty-seven days... **Armed with stronger evidence than ever of the bank's moral unfitness more secret loans to congressmen, more editors (including James Gordon Bennett) "bought up," sixty thousand dollars to printers for propaganda,** light on the Asbury Dickins deal. Jackson summoned his Cabinet on September 10. Presenting a report from Kendall claiming sufficient state banks available for immediate needs, the President said that the Government would change depositories on October 1. The meeting ended in an apparently irreconcilable disagreement Taney and Woodbury supporting Jackson; McLane, Duane and Cass opposed; Barry absent. On September 14, Jackson suggested that Duane retire in keeping with his promise. He refused. On September 19, Jackson read the Cabinet a statement of his reasons for removal which Taney, sustained by black cigars, had sat up most of the night revising. Even Duane admitted it a strong document; but he refused to sign an order discontinuing deposits in the Bank of the United States and he refused to resign. Had Mr. Duane been an officer of the bank, it is difficult to see how he could have served Mr. Biddle better. An interesting fact is that the banker knew six weeks in advance almost precisely the exasperating line the Secretary of the Treasury intended to take with his chief. **Nicholas Biddle turned the screws of credit tighter, not in Boston alone but throughout the East, the West and the South.** Every day of delay strengthened his hands and weakened those of the President. Not even in his bed chamber could Jackson find refuge from the incessant pressure, W. B. Lewis accosting him there to palliate the behavior of Duane and urge a postponement until Congress should meet. "No, sir," the General flashed back. "If the bank . . . [keeps the deposits until then] no power can prevent it from obtaining a charter it will have it if it has to buy up all Congress." To add to these tribulations McLane and Cass threatened to abandon their posts, which would wreck, as many thought, popular confidence in the Administration. Debilitating headaches and a pain in the chest constantly threatened to bring Old Hickory to bed. "Quite unwell today," he wrote. "Nothing but the excitement keeps me up." Through it all the Executive's forbearance was as remarkable as his inflexibility. Quarreling with no one, he met Duane's whimpering insolence with dignity. Not until September 23 did he dismiss this subordinate and name Roger B. Taney in his stead. The new Secretary of the Treasury lost no time giving official notice that Government deposits would not be made in the Bank of the United States after the last day of the month. **Nicholas Biddle thought Jackson would not dare to go that far, but, foresightedly enough, the banker had long and carefully prepared for any eventuality.** He had placed his bank in tip-top shape and slyly drawn state banks into its debt. These astute measures were counted on to break up the removal campaign in its early stages. "When we begin," he told the head of his New York branch, "we shall crush the Kitchen Cabinet at once." The beginning, which Amos Kendall had witnessed in Boston, brought on great consternation but failed to achieve its end. **So, on October 1 Mr. Biddle turned the screws again, and hardest in the West and the South. Discounts were further reduced, more balances against state banks called in, the receipt of the notes of state banks restricted, bills of exchange limited to sixty days., exchange rates raised and rigged in favor of the East to draw capital in that direction.** Sixteen days later western offices were required to squeeze their communities tighter still. The bank claimed these harsh measures necessary to its security, and this false statement contained a deceptive element of truth. Some contraction was necessary, the exact extent of which probably no two persons could have agreed on. Under the cover of this necessity Biddle went far and away beyond anything required by conservative banking. At the outset his bank was in an exceptionally strong position. On October 1, Government money in its vaults amounted to nine million eight hundred and sixty-eight thousand dollars, to be drawn out gradually over a period of several months. **The banker's deliberate purpose was to make people suffer, to bring upon the Administration a storm of protest by the threat of panic and, if that did not suffice, by panic in fact. The blame, he felt, would fall on Jackson and ruin him.** Had not the then Secretary of the Treasury, Mr. McLane, solemnly warned the President of this identical calamity six months before? So Mr. Biddle sowed the wind, topping off that achievement with a manifesto in his jauntiest style, representing Jackson as an angry ignoramus intent upon the demolition of an institution whose aim was to scatter seeds of benevolence among a prosperous, a happy and a virtuous people. Biddle's object was measurably assisted by the lame start the "pet banks," to use the opposition's term, made at taking over the work of the "monster." Amos Kendall, who did much of the actual work of erecting the new system, was a keen man and a capable organizer. Four years as Fourth Auditor of the Treasury, a post beneath his talents, had taught him something of the mysteries of banking and finance; and his constant thought had been to supplant the Bank of the United States. McLane and Duane so retarded his efforts, however, that in September he had brought Jackson an instrument admittedly imperfect. **Confronted by the alternatives of giving battle with half an army or retiring from the field, Old Hickory chose to fight.** Roger B. Taney, taking over the subordinate command, sought to arm a few of the state banks with the means of defense should Biddle suddenly call on them to redeem large quantities of their notes in specie. Accordingly he issued to each of the New York depositories and to one depository in Philadelphia a draft for five hundred thousand dollars on the Bank of the United States. A Baltimore depository got three drafts for a hundred thousand each. These transactions were unnoted in the reports of the Treasury to the Bank of the United States, the strict understanding being that the drafts should be presented only in event of aggression by Mr. Biddle. Temptation overcame some of the recipients of this ammunition. Finding itself adversely involved in speculation, the Union Bank of Baltimore cashed one of the one-hundred-thousand-dollar drafts. The situation was made worse by the fact that Thomas Ellicott, president of this institution, was a close friend of Taney, himself a small stockholder. Then, in defiance of renewed pledges, Ellicott cashed the other two. The Philadelphia bank followed with its five-hundred-thousand-dollar draft, as did one of the New York banks. Biddle met these demands on the spot but filled the air with entirely justified remonstrances because of the intentional omission of the drafts from the Treasury statements. For awhile it looked as if the Baltimore bank

would fail and, all in all, Mr. Taney was in an ugly fix as he deserved to be. But he pulled out, no more emergency drafts being presented. Gradually additions were made to the chain of depositories until the country was covered. By day-and-night industry, the Treasury chief began to co-ordinate their activities. **Nicholas Biddle was equally busy, and the results of his handiwork made the improvements in Mr. Taney's system difficult to appreciate. The repressive proceedings of the great bank were bearing fruit. Commerce slackened, industry drooped, prices of securities and of agricultural products slumped; hands were laid off; wages cut; gold and silver were hoarded, money rates climbed from eight to twenty-five per cent and business houses began to go to the wall.** Nor could all the inconveniences be attributed directly to Mr. Biddle, though it was in his power to relieve them. As the Government's fiscal agent the great bank had provided a national currency that was fairly uniform. A bill on an Atlantic seaboard branch was honored on the Mississippi River for about ninety-eight cents on the dollar. Mr. Taney's thrown-together group was unable to duplicate this arrangement. Troops transferred from Virginia to Alabama found their money had depreciated twelve and a half per cent. Government employees and creditors in Missouri and Illinois, heretofore paid in notes of the great bank's St. Louis branch receivable locally at par, got the paper of the "pet" bank in Washington, D. C., which they found hard to dispose of at a five percent shaving. Such things discomfited a stratum of society where Jackson's supporters were most numerous. **Mr. Biddle beat the drums and let the people know. More manna for congressmen, editors and pamphleteers quickened the spread of his gospel. The waters of public discontent began to rise and some of Jackson's personal followers to fall away. Clayton of Georgia, House leader of the anti-bank forces in 'Thirty-one, accepted a loan and apologized for his error.'**

– *The Life of Andrew Jackson* by Marquis James, Part Two: Portrait of a President, Book Five: The "Reign", Chapter XXXVI (Mr. Biddle's Biggest Gamble), p. 647, 649-652

"A tall and still room in a replica of a Greek temple facing Chestnut Street, Philadelphia, sheltered another man who pondered the affairs of the Bank of the United States tireless, elegant Nicholas Biddle, his imaginative mind emboldened by success. After eight years as the presiding officer of that institution, Nicholas Biddle could contemplate a record of singular achievement. Through its twenty-seven branches and agencies, the Bank of the United States ruled the commerce, the industry, the husbandry of a nation; and Biddle ruled the bank. His control of the circulating medium was nearly absolute. By expanding or contracting credits he could make money plentiful or scarce, business brisk or dull in any locality in the land saving, to a certain extent, New England whose independent banks were strong and well-managed. Nothing short of a declaration of war could effect the everyday concerns of Americans as profoundly as this man, who looked more like a poet than a financier, could affect them by a stroke of the pen with which he had, indeed, struck off some passable pentameters."

– *The Life of Andrew Jackson* by Marquis James, Part Two: Portrait of a President, Book Five: The "Reign", Chapter XXXI (A Greek Temple in Chestnut Street), p. 553

"The terms of this institution's charter favored a revival of the Hamiltonian ideal of concentrating control of the financial affairs of the people of the United States in the hands of a few men. The capital was thirty-five million dollars of which the government subscribed seven million. Control resided in a board of twenty-five directors, five of whom were appointed by the President of the United States, the remainder by the outside stockholders. The bank was designated the depository for all Government funds, though the Secretary of the Treasury might deposit such funds elsewhere provided he informed Congress of the reason. On these deposits the bank paid no interest, but it was required to pay a bonus of a million and a half dollars, to transfer public money without charge, and to perform other services. The bank might issue currency, providing each note was signed by the president of the institution and redeemed in specie on demand. Such currency was receivable for Government dues, a privilege extended to the notes of only such state-chartered banks as redeemed in specie. Biddle made the most of these monopolistic concessions. By refusing to recognize the notes of state institutions which did not redeem in specie, the great bank did much to end the fantastic era of American banking born of the post-war boom and subsequent depression. Government patronage kept the great bank's notes at par. The great bank made state banks toe the mark by calling on them, at the first sign of undue expansion, to redeem in coin. The result, in a few years, was the most satisfactory currency the country had yet known. Broad as was its charter, Biddle enlarged the domination of his bank beyond anything intended by the compact. While the charter specified no limit to the currency of the bank, the provision that each note must be signed by the bank's president was calculated to keep down this circulation. Biddle got around the restriction by devising "branch drafts." In appearance these drafts looked so much like notes of the parent bank in Philadelphia that Mr. Biddle said not one person in a thousand knew the difference. Actually they were checks on the parent bank drawn by the cashiers of branches and endorsed "to bearer." The Government received branch drafts in payment for public obligations and they circulated as money. In theory the drafts were redeemable in specie, though in practice the bank made this difficult, thus stretching its charter again. Redemption at par was possible only at the branch of origin. The bank would place these drafts in circulation remote from their places of origin, western drafts being released in the East and vice versa, so that a holder wishing coin was put to the expense of transporting across the country both the actual notes and the specie received in return. As a result he usually cashed them locally, at a discount. Thus the great bank was able to expand its paper issues beyond anything permitted to a state bank."

– *The Life of Andrew Jackson* by Marquis James, Part Two: Portrait of a President, Book Five: The "Reign", Chapter XXXI (A Greek Temple in Chestnut Street), p. 554-555

"It was Jackson's belief that only specie would protect the laboring masses from the greed of the aristocracy by freeing them from the tyranny of a paper system that was manipulated by the rich. Thus, his economic policy had far-reaching social implications. For a month the House debated the report. Finally the Democrats decided to test their strength and attempt a knockout blow that would end the Bank War once and for all. After first checking with the administration and the other House leaders, Polk called for a vote on a series of resolutions which had already been approved by his committee and which were aimed at nullifying the action of the Senate by registering the House's total approval of the President's Bank policy. On April 4, 1834, the questions were called. By a vote of 134 to 82, the House declared that the Bank of the United States "ought not to be rechartered." Then, by the count of 118 to 103, it agreed that the deposits "ought not to be restored." Next, by a vote of 117 to 105, it recommended that the state banks (the pets) be continued as the places of deposit. And, lastly, by the overwhelming vote of 175 to 42, the House authorized the selection of a committee to examine the Bank's affairs and investigate whether it had deliberately instigated the panic. That did it. That, in effect, ended all hope of the Bank's survival. It seemed only a matter of time before the Democrats would assemble enough evidence from an investigation to prove that Biddle had wantonly and irresponsibly brought economic havoc to the country in order to get his charter. Biddle's very ruthlessness killed the Bank, for he drove away prospective supporters and forced the Democrats to "an inflexible anti-Bank position." He had convinced the public that he was an irresponsible and ungovernable force in American economic life. Even the business community eventually admitted that he had behaved improperly and by the spring of 1834 they forced him to ease the financial pressure. "I have obtained a glorious triumph," Jackson crowed. If nothing else the votes in the House completely scuttled the efforts of the Senate to disgrace him by forcing a restoration of the deposits and a recharter of the Bank. Without the approval of the House, neither action by the Senate, with or without the intimidating tactic of a censure, could be enacted into law. "The overthrow of the opposition in the House of Representatives by the vote on the resolutions," wrote Jackson, "... was a triumphant one, and put to death, that mammoth of corruption and power, the Bank of the United States." The attorney general concurred. "The Bank is dead," Butler informed the Regency. The growing impotence of the Senate on account of the determined stand taken by the House was clearly demonstrated several weeks later. Two resolutions passed by the upper house in early June declaring Taney's reasons for removal unsatisfactory and demanding the restoration of the public money to the BUS went to the House for action. In rapid-fire order the Democratic majority ordered that they lie on the table, which killed them as "dead" as Jackson could have wished. **Still one more nail was hammered into the Bank's coffin. And the hammerer was Biddle himself. The investigating committee authorized by the House resolution arrived in Philadelphia armed with subpoena powers and anxious to examine all the Bank's books. The investigators found Biddle as truculent as ever. He refused permission to examine the books or the correspondence with congressmen relating to personal loans from the BUS.** (Not much later Daniel Webster requested that his accounts be moved "out of the Bank, & all its branches" so that during the next congressional session he could "say that I neither owe the Bank a dollar, nor am on any paper discounted at the Bank, for any body, to the amt. of a dollar.") **In addition, Biddle steadfastly refused to testify before the committee. He was clearly in contempt of Congress, to say nothing of his obligations under the terms of the charter. But, from the beginning of its history, the Bank had regularly violated its charter, and Biddle saw no reason to alter that tradition.** Back in Washington, after the futile and frustrating trip to Philadelphia, the committeemen demanded a citation for contempt. Taney supported the action, as did several members of the Kitchen Cabinet, most notably Blair and Kendall. But many southern Democrats opposed this extreme action and refused to cooperate. As Biddle bemusedly observed, it would be ironic if he went to prison "by the votes of members of Congress because I would not give up to their enemies their confidential letters." Although Biddle escaped a contempt citation, his outrageous defiance of the House only condemned him still further in the eyes of the American public. His latest action, commented William C. Rives, proved "to the people never again to give themselves such a master." Now that the Bank of the United States lay bleeding to death, with no hope of resuscitation, Jackson was anxious to move forward with his hard money and state deposit schemes in the expectation of providing a regulated, responsible banking system. He had in mind a complete economic reform program, something first hinted at by Polk a few weeks earlier. The President acted swiftly. On April 21, 1834, he proposed a series of measure that would provide a general reform of currency and banking. The measures were contained in a report submitted to the House Ways and Means Committee by Secretary Taney. The proposals included the following: that the selection of pet banks be left to the secretary of the treasury; that he be permitted to remove the deposits from any bank after submitting his reasons to Congress; that banks submit monthly reports of their condition; that the government have the right to examine the books and records of the pets; that gold be revalued to bring it to a parity with silver; and that the deposit banks be required to cease issuing notes under five dollars. Later, the prohibition against paper would be extended to all notes under twenty dollars. In this way the country would be restored to coin for its regular transactions and bank notes would serve commercial purposes only. According to Taney's report, the currency reform would follow three stages: first, the total destruction of the BUS; second, the revaluation of gold; and third, the implementation of a full deposit system throughout the country. As a condition to receiving the government deposits, the pets must cease issuing or receiving notes under five dollars. Taney did not go so far as to require gold or silver for the payment of government debts, much as he might like to do so, but he did oppose making the notes of deposit banks receivable for all government dues."

– *Andrew Jackson and the Course of American Democracy, 1833-1845*, Volume III by Robert V. Remini, p. 166-168

“THE PRESIDENT SAT IN HIS STUDY staring at the fire, smoking his long-stemmed pipe and silently chuckling to himself. He was exceedingly pleased with his message. Everything about it tickled him. The sections on the French problem, the Bank issue, and the question of internal improvements had conveyed his thoughts and wishes precisely, and he had a sense that the people strongly approved them. Best of all the message gored the Whigs in all the places that gave them maximum pain. How they writhed over what he had said about the Bank. How they choked and sputtered over his internal improvements pronouncement. Many of them had already responded with cries of outrage. Others just hung their heads and sighed. "My political enemies appear quite chopfallen," Jackson gleefully recounted to his son. "I have had a triumph over them." Apart from this triumph over his "political enemies," a major cause of Jackson's buoyant spirit during the opening weeks of 1835 was the “glorious” accomplishment of extinguishing the national debt. **The last installment of that debt was paid in January, 1835.** It was one of the "reforms" for which Jackson had struggled over the last four years. It was an accomplishment for which he took justifiable credit. Jackson's view of the national debt was terribly naïve – but it was a naivete of the ordinary citizen. Ridding the nation of indebtedness was virtually synonymous with paying off the mortgage on the old homestead. It was a mark of individual achievement, a badge of freedom, a symbol of success. For the nation as a whole, the obliteration of the national debt proclaimed the triumph of American republicanism and the constitutional system. It demonstrated the blessings of democracy to the entire world. This unique and happy event added to Jackson's personal distinction and honor. Ordinary citizens credited him with having achieved the impossible, of having run the government so efficiently and honestly that he had scored the spectacular feat of actually conducting the nation out of debt. **"Out of debt!" The words sent a charge of "exultant joy" through the entire country. "Out of debt!" Every "honest citizen" felt the "magic of the words." Because the final payment of the debt nearly coincided with the anniversary of the Battle of New Orleans, the Democratic party felt it auspicious (and politically advantageous) to combine the two events into one great celebration.** It was twenty years since Jackson had annihilated a British army and proved the power and might of American arms; now, in 1835, he had proved the vitality and strength of American political institutions. As the *Globe* declared: "New Orleans and the National Debt – the first of which paid off our scores to *our enemies*, whilst the latter paid off the last cent to *our friends*." On January 8, 1835, a banquet of "extraordinary magnificence" was held at Brown's Hotel in Washington at 6 P.M. A dinner was provided "in the very best taste," and nearly 250 persons attended. The room was festooned with evergreens, a portrait of George Washington hung from one wall and a portrait of President Jackson from the opposite wall. "On no occasion," reported the *Globe*, "did we ever before witness so much grandeur of scenery calculated to elevate the feelings of patriotic exultation." A band struck up "Hail to the Chief" as the company marched into the hall. Thomas Hart Benton, "Old Bullion," presided. No one had a better right, for no one had done more to aid Jackson in killing the monster Bank and asserting the supremacy of specie, or working toward paying the debt. Assisting Benton on the occasion and serving as vice presidents were James K. Polk, Silas Wright, Jr., William R. King, Henry A. Muhlenberg, Isaac Hill, John Y. Mason, and E. K. Kane. It was a glittering affair, just as the *Globe* reported, but President Jackson declined to attend. The purpose of the occasion was to celebrate a momentous event and he did not wish to subvert it by his presence. He wanted no personal glorification. It was far more important that the nation remember its heroic past and celebrate its deliverance from economic bondage. In that, and that alone, Andrew Jackson would have all the satisfaction and honor he needed. In Jackson's place, Vice President Martin Van Buren attended as distinguished guest. More and more he was seen as the General's hand-picked successor and this celebration pointedly served to identify him with the triumphs of the Jackson administration. The entire cabinet also attended, along with the Speaker of the House, many members of Congress, and high-ranking officers of the army and navy. The ceremonies began with a divine blessing invoked by the chaplain of the Senate, the Reverend Mr. Hatch. Then Senator Benton rose to address the gathering and at once the affair became more lively and spirited. The evening was a rare opportunity for him to boast about the financial predictions he had sounded over the past four years, and he made the most of it. As he got to his feet his face glowed with pride and enthusiasm. He quickly warmed to his main point. *"The national debt, he exclaimed, "is paid!" "Huzza!" the crowd roared. "This month of January, 1835," Benton continued, "in the fifty-eighth year of the Republic, ANDREW JACKSON being President, the NATIONAL DEBT IS PAID! and the apparition, so long unseen on earth, a great nation without a national debt! stands revealed to the astonished vision of a wondering world!" Again the crowd interrupted with "Great Cheering!" "Gentlemen," Benton went on as he prepared to give his toast, "coming direct from my own bosom, will find its response in yours: "PRESIDENT JACKSON: May the evening of his days be as tranquil and as happy for himself as their meridian has been resplendent, glorious, and beneficent for his country. "* Everyone in the room had risen as Benton began this salute to their great chief, and when he concluded they burst into a long round of applause. It was this sort of thing that Jackson feared the occasion might become and why he chose to stay away. But the Democrats could not help themselves and they heaped lavish praise upon him as, one after another, they rose to offer a toast. After the Committee of Arrangements offered their salute, the Vice President spoke. It was not one of his better efforts and, as usual, he went on too long. Several of the honored guests could not quell their loquaciousness and spoke in paragraphs. Then, Levi Woodbury rose. *"The President of the United States,"* he said simply. "Venerable in years-illustrious in deeds." Silas Wright offered: *"The Citizen Soldier.* The strength and security of free government. WASHINGTON, LAFAYETTE, and JACKSON have personified the character." Mahlon Dickerson, the new secretary of the navy, toasted: *"The Eighth of January, 1815.* An important era in the history of America-second only to the 4th of July, 1776." Felix Grundy saluted: "The Constitution of the United States, administered upon the principles of Jefferson, Madison, and Jackson." Jackson himself sent a toast to be read in his absence. It said nothing about himself or the 8th of January. It simply focused on the important deed of extinguishing the debt.”

– *Andrew Jackson and the Course of American Democracy, 1833-1845*, Volume III by Robert V. Remini, Chapter 15, p. 222-225

"No doubt the forceful personality of Jackson did indeed attract lunatics everywhere. But as some suspected at the time, a deeper and more troublesome factor may have been involved. American society itself was undoubtedly at fault. Since the beginning of the nineteenth century the American way of life had changed dramatically-sometimes for the better and sometimes for the worse. The industrial revolution, the transportation revolution, the increased migration westward, the steady rise of the standard of living, the increased momentum in the democratization of political institutions, and the social and economic mobility that visitors instantly noticed-all these had produced marvelous improvements in the quality of life in America. But they also produced hideous side effects. Poverty, urban crime and violence, blatant and vulgar materialism, the disparity of wealth and privilege spawned by the industrial revolution, racial and religious bigotry – these, too, increased. Social conditions fell to such a depth that reform movements had already begun. These were organized attempts to change and better American society, to extirpate materialism, to raise the quality of education, to advance the rights of women, to free the slaves, to ameliorate working conditions, to improve penal and mental institutions, and to establish temperance as a national virtue. The assassination attempt, therefore, was only one more indication that something was terribly amiss with American life and needed attention and healing. It was "a sign of the times," editorialized the New York *Evening Post* on February 4, 1835. The incident occurred during the funeral of Representative Warren R. Davis of South Carolina. The services took place on Friday, January 30, in the House chamber. Both houses, the President, and his cabinet attended. The chaplain gave a long and witless eulogy, something about the uncertainties of life. Throughout the service, the President looked feeble, although he presented a figure of commanding presence. "There sat the gray-haired president," recounted Harriet Martineau, "looking scarcely able to go through the ceremonial." The rites concluded, the congregation filed past the bier and then proceeded to the east porch of the Capitol, the House members first, then the Senate, with the President following behind. Waiting at the entrance of the rotunda of the east portico stood a thirty-year-old man, his face hidden by a thick black beard. As the President with Woodbury and Dickerson reached the rotunda, **the young man stepped up to him, drew a pocket pistol, and aimed it directly at Jackson's heart. He stood only two and half yards away. He squeezed the trigger and an explosion rang out.** Some said it sounded like a rifle shot. Senator John Tyler, who had stepped out of the line of procession, said it reminded him of an "ordinary cracker." Jackson instantly reacted. Instead of ducking away, as most rational men might do, he started for the assailant, his walking cane raised high. **The young man dropped the pistol and produced a second one which he had held ready-cocked in his left hand. By this time several witnesses realized what was happening and tried to seize the would-be assassin. But before they could wrestle him to the ground he took dead aim at the President and pulled the trigger. A second explosion thundered through the chamber. Jackson hesitated only a split second and then continued his lunge at his assailant, ready to thrash him with his cane.** The young man ducked away. Woodbury "aimed a blow" at him and Lieutenant Gedney of the navy finally knocked him down. "The President pressed after him until he saw he was secured." In both instances the caps had discharged but failed to ignite the powder in the barrel. The day was very damp, said Senator Tyler, "a thick mist prevailing" and the pistols were loaded with the "finest powder. It is almost a miracle that they did not go off." Immediately after the attempted assassination, there was a general rush to get the President to safety. "Boiling with rage," the General kept trying to club the young man but was finally hustled to a carriage and sped to the White House. Once away from the rotunda, Jackson quickly regained his composure. He acted as though nothing had happened. Indeed, his outward calm in moments of crisis always amazed his friends. Martin Van Buren, who followed him to the White House and expected to witness an outpouring of Jacksonian wrath, was stupefied to find Old Hickory "sitting with one of Major Donelson's children on his lap and conversing with General Scott, himself apparently the least disturbed person in the room." Outside the White House a sudden thunderstorm broke, booming and raging and threatening; inside the house an old man quietly played with a child and shrugged off the seriousness of what had happened to him. The would-be assassin turned out to be one Richard Lawrence, an unemployed house painter. He was quickly hurried off to "civil authorities" and incarcerated. When the House sergeant-at-arms asked him why he attempted to assassinate the President, Lawrence replied that Jackson had killed his father three years ago. He also muttered something to the effect that he was the legitimate heir to the British throne and that Old Hickory had impeded his succession. Inasmuch as his father, an Englishman, had died a dozen years before it seemed clear to the authorities that Lawrence was deranged. "There is nothing but madness in all this," said John Tyler. But some Democrats, including Jackson, believed that Lawrence was a political assassin, commanded by Whigs. And they had some justification – or so they thought. During a medical examination, when asked whom he preferred as President, Lawrence answered: "Mr. Clay, Mr. Webster, Mr. Calhoun." "It seems he has been a furious politician of the opposition party," wrote Francis Scott Key, "& is represented by some as a very weak man, easily duped or excited." Blair suspected an assassination plot and openly insisted that "a secret conspiracy had prompted the perpetration of the horrible deed." These fears intensified when Judge Cranch, the chief justice of the District, set bail at a paltry \$1500. "There is much excitement among our friends," Taney was told, "on account of the smallness of the sum required." But as soon as it became clear that Lawrence could not meet his bail the tension among Democrats quickly dissipated. Lawrence was subsequently brought to trial. On April 11, 1835, he was found not guilty because "he was under the influence of insanity" when he attempted the assassination. He was immediately committed to an asylum. Because Jackson was a religious fatalist he could not help but see the hand of "providence" in protecting him from what seemed like certain death. When the king of England expressed his concern, Jackson acknowledged that "a kind providence" had been pleased "to shield me" against "the recent attempt upon my life." Others agreed. "The circumstance made a deep impression upon the public feeling," wrote Senator Benton, "and irresistibly carried many minds to the belief in a superintending Providence, manifested in the extraordinary case of two pistols in succession-so well loaded, so coolly handled, and which afterwards fired with such readiness, force, and precision-missing fire, each in its turn, when levelled eight feet at the President's heart." The attack did indeed have a profound effect upon the public. And it produced political gain as well. It "warmed up the love of his friends," Major Donelson was told, ". . . and has given him new friends and advocates." It generated genuine concern and affection for the old man in every section of the country. To many Americans, Jackson's escape from near-certain death resulted from "a special interposition of Providence." The President had been spared in order to continue serving his country-especially during this time of mounting crisis with France over the indemnity claim. Jackson himself believed that a special grace protected this country. But he did not rely on "Providence" to prevent an international disaster. In all crises, he trusted himself-now more than ever."

– *Andrew Jackson and the Course of American Democracy, 1833-1845*, Volume III by Robert V. Remini, Chapter 15, p. 227-230

Article 1 of the Constitution for the United States of America (Sections 8-10)

Article 1, Section 8. Powers of Congress

The Congress shall have Power To lay and collect Taxes, Duties, [Imposts](#) and [Excises](#), to pay the Debts and provide for the common Defence and general [Welfare](#) of the United States; but all Duties, [Imposts](#) and [Excises](#) shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and [Post Roads](#);

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant [Letters of Marque](#) and [Reprisal](#), and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article 1, Section 9.

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of [Habeas Corpus](#) shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of [Attainder](#) or [ex post facto](#) Law shall be passed.

(No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or [Enumeration](#) herein before directed to be taken.)
(Section in parentheses modified by [Amendment XVI](#).)

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No [Title of Nobility](#) shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, [Emolument](#), Office, or Title, of any kind whatever, from any King, Prince or foreign State.

Article 1, Section 10.

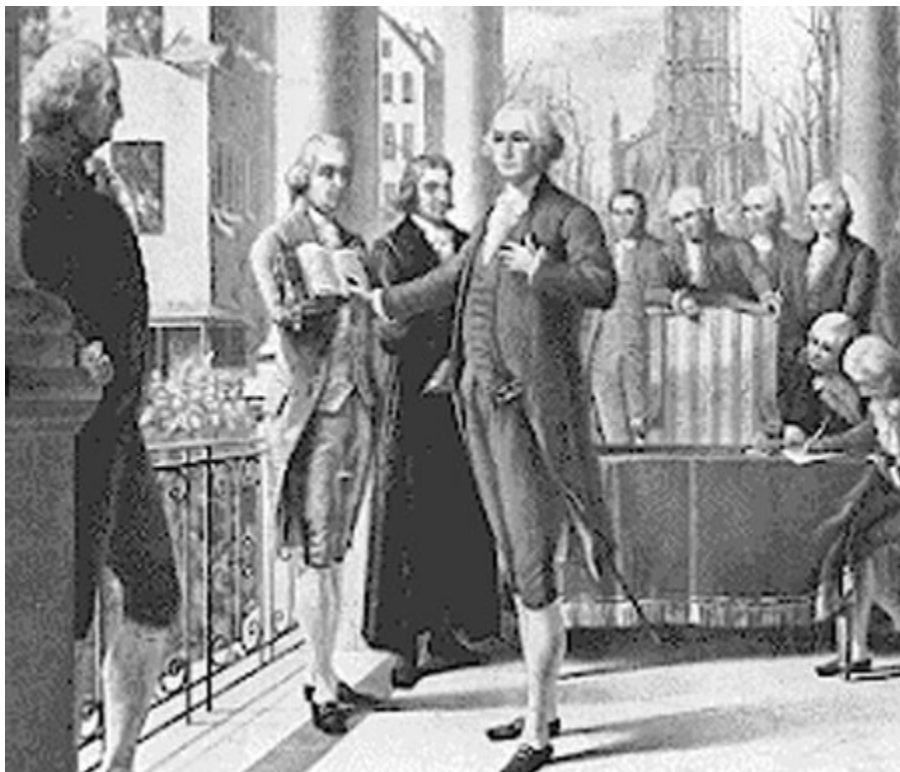
No State shall enter into any Treaty, Alliance, or Confederation; grant [Letters of Marque](#) and [Reprisal](#); coin Money; emit [Bills of Credit](#); make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of [Attainder](#), [ex post facto](#) Law, or Law impairing the Obligation of Contracts, or grant any [Title of Nobility](#).

No State shall, without the Consent of the Congress, lay any [Imposts](#) or Duties on Imports or Exports, except what may be absolutely necessary for executing [it's](#) inspection Laws: and the net Produce of all Duties and [Imposts](#), laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and [Controul](#) of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.



The Founding Fathers meet at Independence Hall in Philadelphia on September 17, 1787 during the Signing of the Constitution of the United States. Benjamin Franklin is seated in the center. **Alexander Hamilton** was the author of many essays in the Federalist Papers that was instrumental in the ratification of the new Constitution. (Painting by Howard Chandler Christy)



George Washington takes the inaugural oath of office at Federal Hall adjacent from Wall Street in New York City, New York on April 30, 1789. The First Bank of the United States, America's first central bank, was promoted by Alexander Hamilton, President George Washington's Secretary of the Treasury. The First Bank of the United States was chartered by Congress on February 25, 1791. (National Archives)



The Bank of New York was established in New York City on June 9, 1784. **Alexander Hamilton, who served as the first Secretary of the Treasury under President George Washington, served as a director of the Bank of New York from 1784 to 1788.** The Bank of New York merged with Mellon Financial Corporation on July 2, 2007.

Presidents of the Bank of New York

Name:	Elected:	Term of Office Ended:
Alexander McDougal	June 9, 1784	Resigned May 9, 1785.
Jeremiah Wadsworth	May 9, 1785	Resigned May 8, 1786.
Isaac Roosevelt	May 8, 1786,	Resigned May 2, 1791.
Gulian Verplanck	May 11, 1791	Died Nov. 20, 1799.
Nicholas Gouverneur	December 7, 1799	Died July 14, 1802.
Herman Le Roy	July 29, 1802	Resigned May 8, 1804.
Matthew Clarkson	May 8, 1804	Resigned April 13, 1825.
Charles Wilkes	May 12, 1825	Resigned Oct. 30, 1832.
Cornelius Heyer	November 15, 1832	Died January 5, 1843.
John Oothout	January 10, 1843	Died January 29, 1858.
Anthony P. Halsey	February 2, 1858	Resigned May 11, 1863.
Charles P. Leverich	May 14, 1863	Died January 10, 1876.
Charles M. Fry	January 18, 1876	

Bank of England: Central Bank for the British Empire & Its North American Colonies



The Bank of England, officially known as “The Governor and Company of the Bank of England”, was established in 1694 when members of the English Parliament passed the Tonnage Act of 1694. The United Kingdom of Great Britain, also known as the union of England and Scotland, was established by an act of Parliament in London on May 1, 1707. (Painting: A View of the Old Bank of England, London, c.1800 by Thomas Hosmer Shepherd/Bank of England Museum)

(Source: <http://www.bbc.co.uk/arts/yourpaintings/paintings/a-view-of-the-old-bank-of-england-london-c-1800-50279>)



SEALING OF THE BANK OF ENGLAND CHARTER. 1694.

SIR JOHN HOUBLON.
Governor.

SIR JOHN SOMEERS.
Lord Keeper.

MR. MICHAEL GODFREY
Deputy Governor.

The Sealing of the Bank of England Charter in 1694. (Source: Alice Archer Houblon, The Houblon Family, vol. 1, 1907)
(Painting: http://commons.wikimedia.org/wiki/File:Bank_of_England_Charter_sealing_1694.jpg)

Wealth of Nations by Adam Smith, Book 2, Chapter 2
Of Money considered as a particular Branch of the general Stock of the Society,
or of the Expense of maintaining the National Capital

It has been shown in the first book, that the price of the greater part of commodities resolves itself into three parts, of which one pays the wages of the labour, another the profits of the stock, and a third the rent of the land which had been employed in producing and bringing them to market: that there are, indeed, some commodities of which the price is made up of two of those parts only, the wages of labour, and the profits of stock: and a very few in which it consists altogether in one, the wages of labour: but that the price of every commodity necessarily resolves itself into some one, or other, or all of these three parts; every part of it which goes neither to rent nor to wages, being necessarily profit to somebody.

Since this is the case, it has been observed, with regard to every particular commodity, taken separately, it must be so with regard to all the commodities which compose the whole annual produce of the land and labour of every country, taken complexly. The whole price or exchangeable value of that annual produce must resolve itself into the same three parts, and be parcelled out among the different inhabitants of the country, either as the wages of their labour, the profits of their stock, or the rent of their land.

But though the whole value of the annual produce of the land and labour of every country is thus divided among and constitutes a revenue to its different inhabitants, yet as in the rent of a private estate we distinguish between the gross rent and the net rent, so may we likewise in the revenue of all the inhabitants of a great country.

The gross rent of a private estate comprehends whatever is paid by the farmer; the net rent, what remains free to the landlord, after deducting the expense of management, of repairs, and all other necessary charges; or what, without hurting his estate, he can afford to place in his stock reserved for immediate consumption, or to spend upon his table, equipage, the ornaments of his house and furniture, his private enjoyments and amusements. His real wealth is in proportion, not to his gross, but to his net rent.

The gross revenue of all the inhabitants of a great country comprehends the whole annual produce of their land and labour; the net revenue, what remains free to them after deducting the expense of maintaining- first, their fixed, and, secondly, their circulating capital; or what, without encroaching upon their capital, they can place in their stock reserved for immediate consumption, or spend upon their subsistence, conveniencies, and amusements. Their real wealth, too, is in proportion, not to their gross, but to their net revenue.

The whole expense of maintaining the fixed capital must evidently be excluded from the net revenue of the society. Neither the materials necessary for supporting their useful machines and instruments of trade, their profitable buildings, etc., nor the produce of the labour necessary for fashioning those materials into the proper form, can ever make any part of it. The price of that labour may indeed make a part of it; as the workmen so employed may place the whole value of their wages in their stock reserved for immediate consumption. But in other sorts of labour, both the price and the produce go to this stock, the price to that of the workmen, the produce to that of other people, whose subsistence, conveniences, and amusements, are augmented by the labour of those workmen.

The intention of the fixed capital is to increase the productive powers of labour, or to enable the same number of labourers to perform a much greater quantity of work. In a farm where all the necessary buildings, fences, drains, communications, etc., are in the most perfect good order, the same number of labourers and labouring cattle will raise a much greater produce than in one of equal extent and equally good ground, but not furnished with equal conveniencies. In manufactures the same number of hands, assisted with the best machinery, will work up a much greater quantity of goods than with more imperfect instruments of trade. The expense which is properly laid out upon a fixed capital of any kind, is always repaid with great profit, and increases the annual produce by a much greater value than that of the support which such improvements require. This support, however, still requires a certain portion of that produce. A certain quantity of materials, and the labour of a certain number of workmen, both of which might have been immediately employed to augment the food, clothing and lodging, the subsistence and conveniencies of the society, are thus diverted to another employment, highly advantageous indeed, but still different from this one. It is upon this account that all such improvements in mechanics, as enable the same number of workmen to perform an equal quantity of work, with cheaper and simpler machinery than had been usual before, are always regarded as advantageous to every society. A certain quantity of materials, and the labour of a certain number of workmen, which had before been employed in supporting a more complex and expensive machinery, can afterwards be applied to augment the quantity of work which that or any other machinery is useful only for performing. The undertaker of some great manufactory who employs a thousand a year in the maintenance of his machinery, if he can reduce this expense to five hundred will naturally employ the other five hundred in purchasing an additional quantity of materials to be wrought up by an additional number of workmen. The quantity of that work, therefore, which his machinery was useful only for performing, will naturally be augmented, and with it all the advantage and conveniency which the society can derive from that work.

The expense of maintaining the fixed capital in a great country may very properly be compared to that of repairs in a private estate. The expense of repairs may frequently be necessary for supporting the produce of the estate, and consequently both the gross and the net rent of the landlord. When by a more proper direction, however, it can be diminished without occasioning any diminution of produce, the gross rent remains at least the same as before, and the net rent is necessarily augmented.

But though the whole expense of maintaining the fixed capital is thus necessarily excluded from the net revenue of the society, it is not the same case with that of maintaining the circulating capital. Of the four parts of which this latter capital is composed- money, provisions, materials, and finished work- the three last, it has already been observed, are regularly withdrawn from it, and placed either in the fixed capital of the society, or in their stock reserved for immediate consumption. Whatever portion of those consumable goods is employed in maintaining the former, goes all to the latter, and makes a part of the net revenue of the society. The maintenance of those three parts of the circulating capital, therefore, withdraws no portion of the annual produce from the net revenue of the society, besides what is necessary for maintaining the fixed capital.

The circulating capital of a society is in this respect different from that of an individual. That of an individual is totally excluded from making any part of his net revenue, which must consist altogether in his profits. But though the circulating capital of every individual makes a part of that of the society to which he belongs, it is not upon that account totally excluded from making a part likewise of their net revenue. Though the whole goods in a merchant's shop must by no means be placed in his own stock reserved for immediate consumption, they may in that of other people, who, from a revenue derived from other funds, may regularly replace their value to him, together with its profits, without occasioning any diminution either of his capital or of theirs.

Money, therefore, is the only part of the circulating capital of a society, of which the maintenance can occasion any diminution in their net revenue.

The fixed capital, and that part of the circulating capital which consists in money, so far as they affect the revenue of the society, bear a very great resemblance to one another.

First, as those machines and instruments of trade, etc., require a certain expense, first to erect them, and afterwards to support them, both which expenses, though they make a part of the gross, are deductions from the net revenue of the society; so the stock of money which circulates in any country must require a certain expense, first to collect it, and afterwards to support it, both which expenses, though they make a part of the gross, are, in the same manner, deductions from the net revenue of the society. A certain quantity of very valuable materials, gold and silver, and of very curious labour, instead of augmenting the stock reserved for immediate consumption, the subsistence, conveniencies, and amusements of individuals, is employed in supporting that great but expensive instrument of commerce, by means of which every individual in the society has his subsistence, conveniencies, and amusements regularly distributed to him in their proper proportions.

Secondly, as the machines and instruments of a trade, etc., which compose the fixed capital either of an individual or of a society, make no part either of the gross or of the net revenue of either; so money, by means of which the whole revenue of the society is regularly distributed among all its different members, makes itself no part of that revenue. The great wheel of circulation is altogether different from the goods which are circulated by means of it. The revenue of the society consists altogether in those goods, and not in the wheel which circulates them. In computing either the gross or the net revenue of any society, we must always, from their whole annual circulation of money and goods, deduct the whole value of the money, of which not a single farthing can ever make any part of either.

It is the ambiguity of language only which can make this proposition appear either doubtful or paradoxical. When properly explained and understood, it is almost self-evident.

When we talk of any particular sum of money, we sometimes mean nothing but the metal pieces of which it is composed; and sometimes we include in our meaning some obscure reference to the goods which can be had in exchange for it, or to the power of purchasing which the possession of it conveys. Thus when we say that the circulating money of England has been computed at eighteen millions, we mean only to express the amount of the metal pieces, which some writers have computed, or rather have supposed to circulate in that country. But when we say that a man is worth fifty or a hundred pounds a year, we mean commonly to express not only the amount of the metal pieces which are annually paid to him, but the value of the goods which he can annually purchase or consume. We mean commonly to ascertain what is or ought to be his way of living, or the quantity and quality of the necessaries and conveniencies of life in which he can with propriety indulge himself.

When, by any particular sum of money, we mean not only to express the amount of the metal pieces of which it is composed, but to include in its signification some obscure reference to the goods which can be had in exchange for them, the wealth or revenue which it in this case denotes, is equal only to one of the two values which are thus intimated somewhat ambiguously by the same word, and to the latter more properly than to the former, to the money's worth more properly than to the money.

Thus if a guinea be the weekly pension of a particular person, he can in the course of the week purchase with it a certain quantity of subsistence, conveniencies, and amusements. In proportion as this quantity is great or small, so are his real riches, his real weekly revenue. His weekly revenue is certainly not equal both to the guinea, and to what can be purchased with it, but only to one or other of those two equal values; and to the latter more properly than to the former, to the guinea's worth rather than to the guinea.

If the pension of such a person was paid to him, not in gold, but in a weekly bill for a guinea, his revenue surely would not so properly consist in the piece of paper, as in what he could get for it. A guinea may be considered as a bill for a certain quantity of necessaries and conveniencies upon all the tradesmen in the neighbourhood. The revenue of the person to whom it is paid, does not so properly consist in the piece of gold, as in what he can get for it, or in what he can exchange it for. If it could be exchanged for nothing, it would, like a bill upon a bankrupt, be of no more value than the most useless piece of paper.

Though the weekly or yearly revenue of all the different inhabitants of any country, in the same manner, may be, and in reality frequently is paid to them in money, their real riches, however, the real weekly or yearly revenue of all of them taken together, must always be great or small in proportion to the quantity of consumable goods which they can all of them purchase with this money. The whole revenue of all of them taken together is evidently not equal to both the money and the consumable goods; but only to one or other of those two values, and to the latter more properly than to the former.

Though we frequently, therefore, express a person's revenue by the metal pieces which are annually paid to him, it is because the amount of those pieces regulates the extent of his power of purchasing, or the value of the goods which he can annually afford to consume. We still consider his revenue as consisting in this power of purchasing or consuming, and not in the pieces which convey it.

But if this is sufficiently evident even with regard to an individual, it is still more so with regard to a society. The amount of the metal pieces which are annually paid to an individual, is often precisely equal to his revenue, and is upon that account the shortest and best expression of its value. But the amount of the metal pieces which circulate in a society can never be equal to the revenue of all its members. As the same guinea which pays the weekly pension of one man to-day, may pay that of another to-morrow, and that of a third the day thereafter, the amount of the metal pieces which annually circulate in any country must always be of much less value than the whole money pensions annually paid with them. But the power of purchasing, or the goods which can successively be bought with the whole of those money pensions as they are successively paid, must always be precisely of the same value with those pensions; as must likewise be the revenue of the different persons to whom they are paid. That revenue, therefore, cannot consist in those metal pieces, of which the amount is so much inferior to its value, but in the power of purchasing, in the goods which can successively be bought with them as they circulate from hand to hand.

Money, therefore, the great wheel of circulation, the great instrument of commerce, like all other instruments of trade, though it makes a part and a very valuable part of the capital, makes no part of the revenue of the society to which it belongs; and though the metal pieces of which it is composed, in the course of their annual circulation, distribute to every man the revenue which properly belongs to him, they make themselves no part of that revenue.

Thirdly, and lastly, the machines and instruments of trade, etc., which compose the fixed capital, bear this further resemblance to that part of the circulating capital which consists in money; that as every saving in the expense of erecting and supporting those machines, which does not diminish the productive powers of labour, is an improvement of the net revenue of the society, so every saving in the expense of collecting and supporting that part of the circulating capital which consists in money, is an improvement of exactly the same kind.

It is sufficiently obvious, and it has partly, too, been explained already, in what manner every saving in the expense of supporting the fixed capital is an improvement of the net revenue of the society. The whole capital of the undertaker of every work is necessarily divided between his fixed and his circulating capital. While his whole capital remains the same, the smaller the one part, the greater must necessarily be the other. It is the circulating capital which furnishes the materials and wages of labour, and puts industry into motion. Every saving, therefore, in the expense of maintaining the fixed capital, which does not diminish the productive powers of labour, must increase the fund which puts industry into motion, and consequently the annual produce of land and labour, the real revenue of every society.

The substitution of paper in the room of gold and silver money, replaces a very expensive instrument of commerce with one much less costly, and sometimes equally convenient. Circulation comes to be carried on by a new wheel, which it costs less both to erect and to maintain than the old one. But in what manner this operation is performed, and in what manner it tends to increase either the gross or the net revenue of the society, is not altogether so obvious, and may therefore require some further explication.

There are several different sorts of paper money; but the circulating notes of banks and bankers are the species which is best known, and which seems best adapted for this purpose.

When the people of any particular country have such confidence in the fortune, probity, and prudence of a particular banker, as to believe that he is always ready to pay upon demand such of his promissory notes as are likely to be at any time presented to him; those notes come to have the same currency as gold and silver money, from the confidence that such money can at any time be had for them.

A particular banker lends among his customers his own promissory notes, to the extent, we shall suppose, of a hundred thousand pounds. As those notes serve all the purposes of money, his debtors pay him the same interest as if he had lent them so much money. This interest is the source of his gain. Though some of those notes are continually coming back upon him for payment, part of them continue to circulate for months and years together. Though he has generally in circulation, therefore, notes to the extent of a hundred thousand pounds, twenty thousand pounds in gold and silver may frequently be a sufficient provision for answering occasional demands. By this operation, therefore, twenty thousand pounds in gold and silver perform all the functions which a hundred thousand could otherwise have performed. The same exchanges may be made, the same quantity of consumable goods may be circulated and distributed to their proper consumers, by means of his promissory notes, to the value of a hundred thousand pounds, as by an equal value of gold and silver money. Eighty thousand pounds of gold and silver, therefore, can, in this manner, be spared from the circulation of the country; and if different operations of the same kind should, at the same time, be carried on by many different banks and bankers, the whole circulation may thus be conducted with a fifth part only of the gold and silver which would otherwise have been requisite.

Let us suppose, for example, that the whole circulating money of some particular country amounted, at a particular time, to one million sterling, that sum being then sufficient for circulating the whole annual produce of their land and labour. Let us suppose, too, that some time thereafter, different banks and bankers issued promissory notes, payable to the bearer, to the extent of one million, reserving in their different coffers two hundred thousand pounds for answering occasional demands. There would remain, therefore, in circulation, eight hundred thousand pounds in gold and silver, and a million of bank notes, or eighteen hundred thousand pounds of paper and money together. But the annual produce of the land and labour of the country had before required only one million to circulate and distribute it to its proper consumers, and that annual produce cannot be immediately augmented by those operations of banking. One million, therefore, will be sufficient to circulate it after them. The goods to be bought and sold being precisely the same as before, the same quantity of money will be sufficient for buying and selling them. The channel of circulation, if I may be allowed such an expression, will remain precisely the same as before. One million we have supposed sufficient to fill that channel. Whatever, therefore, is poured into it beyond this sum cannot run in it, but must overflow. One million eight hundred thousand pounds are poured into it. Eight hundred thousand pounds, therefore, must overflow, that sum being over and above what can be employed in the circulation of the country. But though this sum cannot be employed at home, it is too valuable to be allowed to lie idle. It will, therefore, be sent abroad, in order to seek that profitable employment which it cannot find at home. But the paper cannot go abroad; because at a distance from the banks which issue it, and from the country in which payment of it can be exacted by law, it will not be received in common payments. Gold and silver, therefore, to the amount of eight hundred thousand pounds will be sent abroad, and the channel of home circulation will remain filled with a million of paper, instead of the million of those metals which filled it before.

But though so great a quantity of gold and silver is thus sent abroad, we must not imagine that it is sent abroad for nothing, or that its proprietors make a present of it to foreign nations. They will exchange it for foreign goods of some kind or another, in order to supply the consumption either of some other foreign country or of their own.

If they employ it in purchasing goods in one foreign country in order to supply the consumption of another, or in what is called the carrying trade, whatever profit they make will be an addition to the net revenue of their own country. It is like a new fund, created for carrying on a new trade; domestic business being now transacted by paper, and the gold and silver being converted into a fund for this new trade.

If they employ it in purchasing foreign goods for home consumption, they may either, first, purchase such goods as are likely to be consumed by idle people who produce nothing, such as foreign wines, foreign silks, etc.; or, secondly, they may purchase an additional stock of materials, tools, and provisions, in order to maintain and employ an additional number of industrious people, who reproduce, with a profit, the value of their annual consumption.

So far as it is employed in the first way, it promotes prodigality, increases expense and consumption without increasing production, or establishing any permanent fund for supporting that expense, and is in every respect hurtful to the society.

So far as it is employed in the second way, it promotes industry; and though it increases the consumption of the society, it provides a permanent fund for supporting that consumption, the people who consume reproducing, with a profit, the whole value of their annual consumption. The gross revenue of the society, the annual produce of their land and labour, is increased by the whole value which the labour of those workmen adds to the materials upon which they are employed; and their net revenue by what remains of this value, after deducting what is necessary for supporting the tools and instruments of their trade.

That the greater part of the gold and silver which, being forced abroad by those operations of banking, is employed in purchasing foreign goods for home consumption, is and must be employed in purchasing those of this second kind, seems not only probable but almost unavoidable. Though some particular men may sometimes increase their expense very considerably though their revenue does not increase at all, we may be assured that no class or order of men ever does so; because, though the principles of common prudence do not always govern the conduct of every individual, they always influence that of the majority of every class or order. But the revenue of idle people, considered as a class or order, cannot, in the smallest degree, be increased by those operations of banking. Their expense in general, therefore, cannot be much increased by them, though that of a few individuals among them may, and in

reality sometimes is. The demand of idle people, therefore, for foreign goods being the same, or very nearly the same, as before, a very small part of the money, which being forced abroad by those operations of banking, is employed in purchasing foreign goods for home consumption, is likely to be employed in purchasing those for their use. The greater part of it will naturally be destined for the employment of industry, and not for the maintenance of idleness.

When we compute the quantity of industry which the circulating capital of any society can employ, we must always have regard to those parts of it only which consist in provisions, materials, and finished work: the other, which consists in money, and which serves only to circulate those three, must always be deducted. In order to put industry into motion, three things are requisite; materials to work upon, tools to work with, and the wages or recompense for the sake of which the work is done. Money is neither a material to work upon, nor a tool to work with; and though the wages of the workman are commonly paid to him in money, his real revenue, like that of all other men, consists, not in money, but in the money's worth; not in the metal pieces, but in what can be got for them.

The quantity of industry which any capital can employ must, evidently, be equal to the number of workmen whom it can supply with materials, tools, and a maintenance suitable to the nature of the work. Money may be requisite for purchasing the materials and tools of the work, as well as the maintenance of the workmen. But the quantity of industry which the whole capital can employ is certainly not equal both to the money which purchases, and to the materials, tools, and maintenance, which are purchased with it; but only to one or other of those two values, and to the latter more properly than to the former.

When paper is substituted in the room of gold and silver money, the quantity of the materials, tools, and maintenance, which the whole circulating capital can supply, may be increased by the whole value of gold and silver which used to be employed in purchasing them. The whole value of the great wheel of circulation and distribution is added to the goods which are circulated and distributed by means of it. The operation, in some measure, resembles that of the undertaker of some great work, who, in consequence of some improvement in mechanics, takes down his old machinery, and adds the difference between its price and that of the new to his circulating capital, to the fund from which he furnishes materials and wages to his workmen.

What is the proportion which the circulating money of any country bears to the whole value of the annual produce circulated by means of it, it is, perhaps, impossible to determine. It has been computed by different authors at a fifth, at a tenth, at a twentieth, and at a thirtieth part of that value. But how small soever the proportion which the circulating money may bear to the whole value of the annual produce, as but a part, and frequently but a small part, of that produce, is ever destined for the maintenance of industry, it must always bear a very considerable proportion to that part. When, therefore, by the substitution of paper, the gold and silver necessary for circulation is reduced to, perhaps, a fifth part of the former quantity, if the value of only the greater part of the other four-fifths be added to the funds which are destined for the maintenance of industry, it must make a very considerable addition to the quantity of that industry, and, consequently, to the value of the annual produce of land and labour.

An operation of this kind has, within these five-and-twenty or thirty years, been performed in Scotland, by the erection of new banking companies in almost every considerable town, and even in some country villages. The effects of it have been precisely those above described. The business of the country is almost entirely carried on by means of the paper of those different banking companies, with which purchases and payments of kinds are commonly made. Silver very seldom appears except in the change of a twenty shillings bank note, and gold still seldomer. But though the conduct of all those different companies has not been unexceptionable, and has accordingly required an act of Parliament to regulate it, the country, notwithstanding, has evidently derived great benefit from their trade. I have heard it asserted, that the trade of the city of Glasgow doubled in about fifteen years after the first erection of the banks there; and that the trade of Scotland has more than quadrupled since the first erection of the two public banks at Edinburgh, of which the one, called the Bank of Scotland, was established by act of Parliament in 1695; the other, called the Royal Bank, by royal charter in 1727. Whether the trade, either of Scotland in general, or the city of Glasgow in particular, has really increased in so great a proportion, during so short a period, I do not pretend to know. If either of them has increased in this proportion, it seems to be an effect too great to be accounted for by the sole operation of this cause. That the trade and industry of Scotland, however, have increased very considerably during this period, and that the banks have contributed a good deal to this increase, cannot be doubted.

The value of the silver money which circulated in Scotland before the union, in 1707, and which, immediately after it, was brought into the Bank of Scotland in order to be recoinced, amounted to £411,117 10s. 9d. sterling. No account has been got of the gold coin; but it appears from the ancient accounts of the mint of Scotland, that the value of the gold annually coined somewhat exceeded that of the silver. There were a good many people, too, upon this occasion, who, from a diffidence of repayment, did not bring their silver into the Bank of Scotland: and there was, besides, some English coin which was not called in. The whole value of the gold and silver, therefore, which circulated in Scotland before the union, cannot be estimated at less than a million sterling. It seems to have constituted almost the whole circulation of that country; for though the circulation of the Bank of Scotland, which had then no rival, was considerable, it seems to have made but a very small part of the whole. In the present times the whole circulation of Scotland cannot be estimated at less than two millions, of which that part which consists in gold and silver most probably does not amount to half a million. But though the circulating gold and silver of Scotland have suffered so great a diminution during this period, its real riches and prosperity do not appear to have suffered any. Its agriculture, manufactures, and trade, on the contrary, the annual produce of its land and labour, have evidently been augmented.

It is chiefly by discounting bills of exchange, that is, by advancing money upon them before they are due, that the greater part of banks and bankers issue their promissory notes. They deduct always, upon whatever sum they advance, the legal interest till the bill shall become due. The payment of the bill, when it becomes due, replaces to the bank the value of what had been advanced, together with a clear profit of the interest. The banker who advances to the merchant whose bill he discounts, not gold and silver, but his own promissory notes, has the advantage of being able to discount to a greater amount, by the whole value of his promissory notes, which he finds by experience are commonly in circulation. He is thereby enabled to make his clear gain of interest on so much a larger sum.

The commerce of Scotland, which at present is not very great, was still more inconsiderable when the two first banking companies were established, and those companies would have had but little trade had they confined their business to the discounting of bills of exchange. They invented, therefore, another method of issuing their promissory notes; by granting what they called cash accounts, that is by giving credit to the extent of a certain sum (two or three thousand pounds, for example) to any individual who could procure two persons of undoubted credit and good landed estate to become surety for him, that whatever money should be advanced to him, within the sum for which the credit had been given, should be repaid upon demand, together with the legal interest. Credits of this kind are, I believe, commonly granted by banks and bankers in all different parts of the world. But the easy terms upon which the Scotch banking companies accept of repayment are, so far as I know, peculiar to them, and have, perhaps, been the principal cause, both of the great trade of those companies and of the benefit which the country has received from it.

Whoever has a credit of this kind with one of those companies, and borrows a thousand pounds upon it, for example, may repay this sum piecemeal, by twenty and thirty pounds at a time, the company discounting a proportionable part of the interest of the great sum from the day on which each of those small sums is paid in till the whole be in this manner repaid. All merchants, therefore, and almost all men of business, find it convenient to keep such cash accounts with them, and are thereby interested to promote the trade of those companies, by readily receiving their notes in all payments, and by encouraging all those with whom they have any influence to do the same. The banks, when their customers apply to them for money, generally advance it to them in their own promissory notes. These the merchants pay away to the manufacturers for goods, the manufacturers to the farmers for materials and provisions, the farmers to their landlords for rent, the landlords repay them to the merchants for the conveniencies and luxuries with which they supply them, and the merchants again return them to the banks in order to balance their cash accounts, or to replace what they may have borrowed of them; and thus almost the whole money business of the country is transacted by means of them. Hence the great trade of those companies.

By means of those cash accounts every merchant can, without imprudence, carry on a greater trade than he otherwise could do. If there are two merchants, one in London and the other in Edinburgh, who employ equal stocks in the same branch of trade, the Edinburgh merchant can, without imprudence, carry on a greater trade and give employment to a greater number of people than the London merchant. The London merchant must always keep by him a considerable sum of money, either in his own coffers, or in those of his banker, who gives him no interest for it, in order to answer the demands continually coming upon him for payment of the goods which he purchases upon credit. Let the ordinary amount of this sum be supposed five hundred pounds. The value of the goods in his warehouse must always be less by five hundred pounds than it would have been had he not been obliged to keep such a sum unemployed. Let us suppose that he generally disposes of his whole stock upon hand, or of goods to the value of his whole stock upon hand, once in the year. By being obliged to keep so great a sum unemployed, he must sell in a year five hundred pounds' worth less goods than he might otherwise have done. His annual profits must be less by all that he could have made by the sale of five hundred pounds worth more goods; and the number of people employed in preparing his goods for the market must be less by all those that five hundred pounds more stock could have employed. The merchant in Edinburgh, on the other hand, keeps no money unemployed for answering such occasional demands. When they actually come upon him, he satisfies them from his cash account with the bank, and gradually replaces the sum borrowed with the money or paper which comes in from the occasional sales of his goods. With the same stock, therefore, he can, without imprudence, have at all times in his warehouse a larger quantity of goods than the London merchant; and can thereby both make a greater profit himself, and give constant employment to a greater number of industrious people who prepare those goods for the market. Hence the great benefit which the country has derived from this trade.

The facility of discounting bills of exchange it may be thought indeed, gives the English merchants a conveniency equivalent to the cash accounts of the Scotch merchants. But the Scotch merchants, it must be remembered, can discount their bills of exchange as easily as the English merchants; and have, besides, the additional conveniency of their cash accounts.

The whole paper money of every kind which can easily circulate in any country never can exceed the value of the gold and silver, of which it supplies the place, or which (the commerce being supposed the same) would circulate there, if there was no paper money. If twenty shilling notes, for example, are the lowest paper money current in Scotland, the whole of that currency which can easily circulate there cannot exceed the sum of gold and silver which would be necessary for transacting the annual exchanges of twenty shillings value and upwards usually transacted within that country. Should the circulating paper at any time exceed that sum, as the excess could neither be sent abroad nor be employed in the circulation of the country, it must immediately return upon the banks to be exchanged for gold and silver. Many people would immediately perceive that they had more of this paper than was necessary for transacting their business at home, and as they could not send it abroad, they would immediately demand payment of it from the banks. When this superfluous paper was converted into gold and silver, they could easily find a use for it by sending it abroad; but they could find none while it remained in the shape of paper. There would immediately, therefore, be a run upon the banks to the whole extent of

this superfluous paper, and, if they showed any difficulty or backwardness in payment, to a much greater extent; the alarm which this would occasion necessarily increasing the run.

Over and above the expenses which are common to every branch of trade; such as the expense of house-rent, the wages of servants, clerks, accountants, etc.; the expenses peculiar to a bank consist chiefly in two articles: first, in the expense of keeping at all times in its coffers, for answering the occasional demands of the holders of its notes, a large sum of money, of which it loses the interest; and, secondly, in the expense of replenishing those coffers as fast as they are emptied by answering such occasional demands.

A banking company, which issues more paper than can be employed in the circulation of the country, and of which the excess is continually returning upon them for payment, ought to increase the quantity of gold and silver, which they keep at all times in their coffers, not only in proportion to this excessive increase of their circulation, but in a much greater proportion; their notes returning upon them much faster than in proportion to the excess of their quantity. Such a company, therefore, ought to increase the first article of their expense, not only in proportion to this forced increase of their business, but in a much greater proportion.

The coffers of such a company too, though they ought to be filled much fuller, yet must empty themselves much faster than if their business was confined within more reasonable bounds, and must require, not only a more violent, but a more constant and uninterrupted exertion of expense in order to replenish them. The coin too, which is thus continually drawn in such large quantities from their coffers, cannot be employed in the circulation of the country. It comes in place of a paper which is over and above what can be employed in that circulation, and is therefore over and above what can be employed in it too. But as that coin will not be allowed to lie idle, it must, in one shape or another, be sent abroad, in order to find that profitable employment which it cannot find at home; and this continual exportation of gold and silver, by enhancing the difficulty, must necessarily enhance still further the expense of the bank, in finding new gold and silver in order to replenish those coffers, which empty themselves so very rapidly. Such a company, therefore, must, in proportion to this forced increase of their business, increase the second article of their expense still more than the first.

Let us suppose that all the paper of a particular bank, which the circulation of the country can easily absorb and employ, amounts exactly to forty thousand pounds; and that for answering occasional demands, this bank is obliged to keep at all times in its coffers ten thousand pounds in gold and silver. Should this bank attempt to circulate forty-four thousand pounds, the four thousand pounds which are over and above what the circulation can easily absorb and employ, will return upon it almost as fast as they are issued. For answering occasional demands, therefore, this bank ought to keep at all times in its coffers, not eleven thousand pounds only, but fourteen thousand pounds. It will thus gain nothing by the interest of the four thousand pounds' excessive circulation; and it will lose the whole expense of continually collecting four thousand pounds in gold and silver, which will be continually going out of its coffers as fast as they are brought into them.

Had every particular banking company always understood and attended to its own particular interest, the circulation never could have been overstocked with paper money. But every particular banking company has not always understood or attended to its own particular interest, and the circulation has frequently been overstocked with paper money.

By issuing too great a quantity of paper, of which the excess was continually returning, in order to be exchanged for gold and silver, the Bank of England was for many years together obliged to coin gold to the extent of between eight hundred thousand pounds and a million a year; or at an average, about eight hundred and fifty thousand pounds. For this great coinage the bank (in consequence of the worn and degraded state into which the gold coin had fallen a few years ago) was frequently obliged to purchase gold bullion at the high price of four pounds an ounce, which it soon after issued in coin at 53 17s. 10 1/2d. an ounce, losing in this manner between two and a half and three per cent upon the coinage of so very large a sum. Though the bank therefore paid no seignorage, though the government was properly at the expense of the coinage, this liberality of government did not prevent altogether the expense of the bank.

The Scotch banks, in consequence of an excess of the same kind, were all obliged to employ constantly agents at London to collect money for them, at an expense which was seldom below one and a half or two per cent. This money was sent down by the waggon, and insured by the carriers at an additional expense of three quarters per cent or fifteen shillings on the hundred pounds. Those agents were not always able to replenish the coffers of their employers so fast as they were emptied. In this case the resource of the banks was to draw upon their correspondents in London bills of exchange to the extent of the sum which they wanted. When those correspondents afterwards drew upon them for the payment of this sum, together with the interest and a commission, some of those banks, from the distress into which their excessive circulation had thrown them, had sometimes no other means of satisfying this draught but by drawing a second set of bills either upon the same, or upon some other correspondents in London; and the same sum, or rather bills for the same sum, would in this manner make sometimes more than two or three journeys, the debtor, bank, paying always the interest and commission upon the whole accumulated sum. Even those Scotch banks which never distinguished themselves by their extreme imprudence, were sometimes obliged to employ this ruinous resource.

The gold coin which was paid out either by the Bank of England, or by the Scotch banks, in exchange for that part of their paper which was over and above what could be employed in the circulation of the country, being likewise over and above what could be employed in that circulation, was sometimes sent abroad in the shape of coin, sometimes melted down and sent abroad in the shape of bullion,

and sometimes melted down and sold to the Bank of England at the high price of four pounds an ounce. It was the newest, the heaviest, and the best pieces only which were carefully picked out of the whole coin, and either sent abroad or melted down. At home, and while they remained in the shape of coin, those heavy pieces were of no more value than the light. But they were of more value abroad, or when melted down into bullion, at home. The Bank of England, notwithstanding their great annual coinage, found to their astonishment that there was every year the same scarcity of coin as there had been the year before; and that notwithstanding the great quantity of good and new coin which was every year issued from the bank, the state of the coin, instead of growing better and better, became every year worse and worse. Every year they found themselves under the necessity of coining nearly the same quantity of gold as they had coined the year before, and from the continual rise in the price of gold bullion, in consequence of the continual wearing and clipping of the coin, the expense of this great annual coinage became every year greater and greater. The Bank of England, it is to be observed, by supplying its own coffers with coin, is indirectly obliged to supply the whole kingdom, into which coin is continually flowing from those coffers in a great variety of ways. Whatever coin therefore was wanted to support this excessive circulation both of Scotch and English paper money, whatever vacuities this excessive circulation occasioned in the necessary coin of the kingdom, the Bank of England was obliged to supply them. The Scotch banks, no doubt, paid all of them very dearly for their own imprudence and inattention. But the Bank of England paid very dearly, not only for its own imprudence, but for the much greater imprudence of almost all the Scotch banks.

The overtrading of some bold projectors in both parts of the United Kingdom was the original cause of this excessive circulation of paper money.

What a bank can with propriety advance to a merchant or undertaker of any kind, is not either the whole capital with which he trades, or even any considerable part of that capital; but that part of it only which he would otherwise be obliged to keep by him unemployed, and in ready money for answering occasional demands. If the paper money which the bank advances never exceeds this value, it can never exceed the value of the gold and silver which would necessarily circulate in the country if there was no paper money; it can never exceed the quantity which the circulation of the country can easily absorb and employ.

When a bank discounts to a merchant a real bill of exchange drawn by a real creditor upon a real debtor, and which, as soon as it becomes due, is really paid by that debtor, it only advances to him a part of the value which he would otherwise be obliged to keep by him unemployed and in ready money for answering occasional demands. The payment of the bill, when it becomes due, replaces to the bank the value of what it had advanced, together with the interest. The coffers of the bank, so far as its dealings are confined to such customers, resemble a water pond, from which, though a stream is continually running out, yet another is continually running in, fully equal to that which runs out; so that, without any further care or attention, the pond keeps always equally, or very near equally full. Little or no expense can ever be necessary for replenishing the coffers of such a bank.

A merchant, without overtrading, may frequently have occasion for a sum of ready money, even when he has no bills to discount. When a bank, besides discounting his bills, advances him likewise upon such occasions such sums upon his cash account, and accepts of a piecemeal repayment as the money comes in from the occasional sale of his goods, upon the easy terms of the banking companies of Scotland; it dispenses him entirely from the necessity of keeping any part of his stock by him unemployed and in ready money for answering occasional demands. When such demands actually come upon him, he can answer them sufficiently from his cash account. The bank, however, in dealing with such customers, ought to observe with great attention, whether in the course of some short period (of four, five, six, or eight months for example) the sum of the repayments which it commonly receives from them is, or is not, fully equal to that of the advances which it commonly makes to them. If, within the course of such short periods, the sum of the repayments from certain customers is, upon most occasions, fully equal to that of the advances, it may safely continue to deal with such customers. Though the stream which is in this case continually running out from its coffers may be very large, that which is continually running into them must be at least equally large; so that without any further care or attention those coffers are likely to be always equally or very near equally full; and scarce ever to require any extraordinary expense to replenish them. If, on the contrary, the sum of the repayments from certain other customers falls commonly very much short of the advances which it makes to them, it cannot with any safety continue to deal with such customers, at least if they continue to deal with it in this manner. The stream which is in this case continually running out from its coffers is necessarily much larger than that which is continually running in; so that, unless they are replenished by some great and continual effort of expense, those coffers must soon be exhausted altogether.

The banking companies of Scotland, accordingly, were for a long time very careful to require frequent and regular repayments from all their customers, and did not care to deal with any person, whatever might be his fortune or credit, who did not make, what they called, frequent and regular operations with them. By this attention, besides saving almost entirely the extraordinary expense of replenishing their coffers, they gained two other very considerable advantages.

First, by this attention they were enabled to make some tolerable judgment concerning the thriving or declining circumstances of their debtors, without being obliged to look out for any other evidence besides what their own books afforded them; men being for the most part either regular or irregular in their repayments, according as their circumstances are either thriving or declining. A private man who lends out his money to perhaps half a dozen or a dozen of debtors, may, either by himself or his agents, observe and inquire both constantly and carefully into the conduct and situation of each of them. But a banking company, which lends money to perhaps five hundred different people, and of which the attention is continually occupied by objects of a very different kind, can have no regular

information concerning the conduct and circumstances of the greater part of its debtors beyond what its own books afford it. In requiring frequent and regular repayments from all their customers, the banking companies of Scotland had probably this advantage in view.

Secondly, by this attention they secured themselves from the possibility of issuing more paper money than what the circulation of the country could easily absorb and employ. When they observed that within moderate periods of time the repayments of a particular customer were upon most occasions fully equal to the advances which they had made to him, they might be assured that the paper money which they had advanced to him had not at any time exceeded the quantity of gold and silver which he would otherwise have been obliged to keep by him for answering occasional demands; and that, consequently, the paper money, which they had circulated by his means, had not at any time exceeded the quantity of gold and silver which would have circulated in the country had there been no paper money. The frequency, regularity, and amount of his repayments would sufficiently demonstrate that the amount of their advances had at no time exceeded that part of his capital which he would otherwise have been obliged to keep by him unemployed and in ready money for answering occasional demands; that is, for the purpose of keeping the rest of his capital in constant employment. It is this part of his capital only which, within moderate periods of time, is continually returning to every dealer in the shape of money, whether paper or coin, and continually going from him in the same shape. If the advances of the bank had commonly exceeded this part of his capital, the ordinary amount of his repayments could not, within moderate periods of time, have equalled the ordinary amount of its advances. The stream which, by means of his dealings, was continually running into the coffers of the bank, could not have been equal to the stream which, by means of the same dealings, was continually running out. The advances of the bank paper, by exceeding the quantity of gold and silver which, had there been no such advances, he would have been obliged to keep by him for answering occasional demands, might soon come to exceed the whole quantity of gold and silver which (the commerce being supposed the same) would have circulated in the country had there been no paper money; and consequently to exceed the quantity which the circulation of the country could easily absorb and employ; and the excess of this paper money would immediately have returned upon the bank in order to be exchanged for gold and silver. This second advantage, though equally real, was not perhaps so well understood by all the different banking companies of Scotland as the first.

When, partly by the conveniency of discounting bills, and partly by that of cash accounts, the creditable traders of any country can be dispensed from the necessity of keeping any part of their stock by them unemployed and in ready money for answering occasional demands, they can reasonably expect no farther assistance from banks and bankers, who, when they have gone thus far, cannot, consistently with their own interest and safety, go farther. A bank cannot, consistently with its own interest, advance to a trader the whole or even the greater part of the circulating capital with which he trades; because, though that capital is continually returning to him in the shape of money, and going from him in the same shape, yet the whole of the returns is too distant from the whole of the outgoings, and the sum of his repayments could not equal the sum of its advances within such moderate periods of time as suit the conveniency of a bank. Still less, could a bank afford to advance him any considerable part of his fixed capital; of the capital which the undertaker of an iron forge, for example, employs in erecting his forge and smelting-house, his workhouses and warehouses, the dwelling-houses of his workmen, etc.; of the capital which the undertaker of a mine employs in sinking his shafts, in erecting engines for drawing out the water, in making roads and waggon-ways, etc.; of the capital which the person who undertakes to improve land employs in clearing, draining, enclosing, manuring, and ploughing waste and uncultivated fields, in building farm-houses, with all their necessary appendages of stables, granaries, etc. The returns of the fixed capital are in almost all cases much slower than those of the circulating capital; and such expenses, even when laid out with the greatest prudence and judgment, very seldom return to the undertaker till after a period of many years, a period by far too distant to suit the conveniency of a bank. Traders and other undertakers may, no doubt, with great propriety, carry on a very considerable part of their projects with borrowed money. In justice to their creditors, however, their own capital ought, in this case, to be sufficient to ensure, if I may say so, the capital of those creditors; or to render it extremely improbable that those creditors should incur any loss, even though the success of the project should fall very much short of the expectation of the projectors. Even with this precaution too, the money which is borrowed, and which it is meant should not be repaid till after a period of several years, ought not to be borrowed of a bank, but ought to be borrowed upon bond or mortgage of such private people as propose to live upon the interest of their money without taking the trouble themselves to employ the capital, and who are upon that account willing to lend that capital to such people of good credit as are likely to keep it for several years. A bank, indeed, which lends its money without the expense of stamped paper, or of attorneys' fees for drawing bonds and mortgages, and which accepts of repayment upon the easy terms of the banking companies of Scotland, would, no doubt, be a very convenient creditor to such traders and undertakers. But such traders and undertakers would, surely, be most inconvenient debtors to such a bank.

It is now more than five-and-twenty years since the paper money issued by the different banking companies of Scotland was fully equal, or rather was somewhat more than fully equal, to what the circulation of the country could easily absorb and employ. Those companies, therefore, had so long ago given all the assistance to the traders and other undertakers of Scotland which it is possible for banks and bankers, consistently with their own interest, to give. They had even done somewhat more. They had overtraded a little, and had brought upon themselves that loss, or at least that diminution of profit, which in this particular business never fails to attend the smallest degree of overtrading. Those traders and other undertakers, having got so much assistance from banks and bankers, wished to get still more. The banks, they seem to have thought, could extend their credits to whatever sum might be wanted, without incurring any other expense besides that of a few reams of paper. They complained of the contracted views and dastardly spirit of the directors of those banks, which did not, they said, extend their credits in proportion to the extension of the trade of the country; meaning, no doubt, by the extension of that trade the extension of their own projects beyond what they could carry on, either with their own capital,

or with what they had credit to borrow of private people in the usual way of bond or mortgage. The banks, they seem to have thought, were in honour bound to supply the deficiency, and to provide them with all the capital which they wanted to trade with. The banks, however, were of a different opinion, and upon their refusing to extend their credits, some of those traders had recourse to an expedient which, for a time, served their purpose, though at a much greater expense, yet as effectually as the utmost extension of bank credits could have done. This expedient was no other than the well-known shift of drawing and redrawing; the shift to which unfortunate traders have sometimes recourse when they are upon the brink of bankruptcy. The practice of raising money in this manner had been long known in England, and during the course of the late war, when the high profits of trade afforded a great temptation to overtrading, is said to have carried on to a very great extent. From England it was brought into Scotland, where, in proportion to the very limited commerce, and to the very moderate capital of the country, it was soon carried on to a much greater extent than it ever had been in England.

The practice of drawing and redrawing is so well known to all men of business that it may perhaps be thought unnecessary to give an account of it. But as this book may come into the hands of many people who are not men of business, and as the effects of this practice upon the banking trade are not perhaps generally understood even by men of business themselves, I shall endeavour to explain it as distinctly as I can.

The customs of merchants, which were established when the barbarous laws of Europe did not enforce the performance of their contracts, and which during the course of the two last centuries have been adopted into the laws of all European nations, have given such extraordinary privileges to bills of exchange that money is more readily advanced upon them than upon any other species of obligation, especially when they are made payable within so short a period as two or three months after their date. If, when the bill becomes due, the acceptor does not pay it as soon as it is presented, he becomes from that moment a bankrupt. The bill is protested, and returns upon the drawer, who, if he does not immediately pay it, becomes likewise a bankrupt. If, before it came to the person who presents it to the acceptor for payment, it had passed through the hands of several other persons, who had successively advanced to one another the contents of it either in money or goods, and who to express that each of them had in his turn received those contents, had all of them in their order endorsed, that is, written their names upon the back of the bill; each endorser becomes in his turn liable to the owner of the bill for those contents, and, if he fails to pay, he becomes too from that moment a bankrupt. Though the drawer, acceptor, and endorsers of the bill should, all of them, be persons of doubtful credit; yet still the shortness of the date gives some security to the owner of the bill. Though all of them may be very likely to become bankrupts, it is a chance if they all become so in so short a time. The house is crazy, says a weary traveller to himself, and will not stand very long; but it is a chance if it falls to-night, and I will venture, therefore, to sleep in it to-night.

The trader A in Edinburgh, we shall suppose, draws a bill upon B in London, payable two months after date. In reality B in London owes nothing to A in Edinburgh; but he agrees to accept of A's bill, upon condition that before the term of payment he shall redraw upon A in Edinburgh for the same sum, together with the interest and a commission, another bill, payable likewise two months after date. B accordingly, before the expiration of the first two months, redraws this bill upon A in Edinburgh; who again, before the expiration of the second two months, draws a second bill upon B in London, payable likewise two months after date; and before the expiration of the third two months, B in London redraws upon A in Edinburgh another bill, payable also two months after date. This practice has sometimes gone on, not only for several months, but for several years together, the bill always returning upon A in Edinburgh, with the accumulated interest and commission of all the former bills. The interest was five per cent in the year, and the commission was never less than one half per cent on each draft. This commission being repeated more than six times in the year, whatever money A might raise by this expedient must necessarily have, cost him something more than eight per cent in the year, and sometimes a great deal more; when either the price of the commission happened to rise, or when he was obliged to pay compound interest upon the interest and commission of former bills. This practice was called raising money by circulation.

In a country where the ordinary profits of stock in the greater part of mercantile projects are supposed to run between six and ten per cent, it must have been a very fortunate speculation of which the returns could not only repay the enormous expense at which the money was thus borrowed for carrying it on; but afford, besides, a good surplus profit to the projector. Many vast and extensive projects, however, were undertaken, and for several years carried on without any other fund to support them besides what was raised at this enormous expense. The projectors, no doubt, had in their golden dreams the most distinct vision of this great profit. Upon their awaking, however, either at the end of their projects, or when they were no longer able to carry them on, they very seldom, I believe, had the good fortune to find it.

The bills A in Edinburgh drew upon B in London, he regularly discounted two months before they were due with some bank or banker in Edinburgh; and the bills which B in London drew upon A in Edinburgh, he as regularly discounted either with the Bank of England, or with some other bankers in London. Whatever was advanced upon such circulating bills, was, in Edinburgh, advanced in the paper of the Scotch banks, and in London, when they were discounted at the Bank of England, in the paper of that bank. Though the bills upon which this paper had been advanced were all of them repaid in their turn as soon as they became due; yet the value which had been really advanced upon the first bill, was never really returned to the banks which advanced it; because, before each bill became due, another bill was always drawn to somewhat a greater amount than the bill which was soon to be paid; and the discounting of this other bill was essentially necessary towards the payment of that which was soon to be due. This payment, therefore, was

altogether fictitious. The stream, which, by means of those circulating bills of exchange, had once been made to run out from the coffers of the banks, was never replaced by any stream which really run into them.

The paper which was issued upon those circulating bills of exchange, amounted, upon many occasions, to the whole fund destined for carrying on some vast and extensive project of agriculture, commerce, or manufactures; and not merely to that part of it which, had there been no paper money, the projector would have been obliged to keep by him, unemployed and in ready money for answering occasional demands. The greater part of this paper was, consequently, over and above the value of the gold and silver which would have circulated in the country, had there been no paper money. It was over and above, therefore, what the circulation of the country could easily absorb and employ, and upon that account, immediately returned upon the banks in order to be exchanged for gold and silver, which they were to find as they could. It was a capital which those projectors had very artfully contrived to draw from those banks, not only without their knowledge or deliberate consent, but for some time, perhaps, without their having the most distant suspicion that they had really advanced it.

When two people, who are continually drawing and redrawing upon one another, discount their bills always with the same banker, he must immediately discover what they are about, and see clearly that they are trading, not with any capital of their own, but with the capital which he advances to them. But this discovery is not altogether so easy when they discount their bills sometimes with one banker, and sometimes with another, and when the same two persons do not constantly draw and redraw upon one another, but occasionally run the round of a great circle of projectors, who find it for their interest to assist one another in this method of raising money, and to render it, upon that account, as difficult as possible to distinguish between a real and fictitious bill of exchange; between a bill drawn by a real creditor upon a real debtor, and a bill for which there was properly no real creditor but the bank which discounted it, nor any real debtor but the projector who made use of the money. When a banker had even made this discovery, he might sometimes make it too late, and might find that he had already discounted the bills of those projectors to so great an extent that, by refusing to discount any more, he would necessarily make them all bankrupts, and thus, by ruining them, might perhaps ruin himself. For his own interest and safety, therefore, he might find it necessary, in this very perilous situation, to go on for some time, endeavouring, however, to withdraw gradually, and upon that account making every day greater and greater difficulties about discounting, in order to force those projectors by degrees to have recourse, either to other bankers, or to other methods of raising money; so that he himself might, as soon as possible, get out of the circle. The difficulties, accordingly, which the Bank of England, which the principal bankers in London, and which even the more prudent Scotch banks began, after a certain time, and when all of them had already gone too far, to make about discounting, not only alarmed, but enraged in the highest degree those projectors. Their own distress, of which this prudent and necessary reserve of the banks was, no doubt, the immediate occasion, they called the distress of the country; and this distress of the country, they said, was altogether owing to the ignorance, pusillanimity, and bad conduct of the banks, which did not give a sufficiently liberal aid to the spirited undertakings of those who exerted themselves in order to beautify, improve, and enrich the country. It was the duty of the banks, they seemed to think, to lend for as long a time, and to as great an extent as they might wish to borrow. The banks, however, by refusing in this manner to give more credit to those to whom they had already given a great deal too much, took the only method by which it was now possible to save either their own credit or the public credit of the country.

In the midst of this clamour and distress, a new bank was established in Scotland for the express purpose of relieving the distress of the country. The design was generous; but the execution was imprudent, and the nature and causes of the distress which it meant to relieve were not, perhaps, well understood. This bank was more liberal than any other had ever been, both in granting cash accounts, and in discounting bills of exchange. With regard to the latter, it seems to have made scarce any distinction between real and circulating bills, but to have discounted all equally. It was the avowed principle of this bank to advance, upon any reasonable security, the whole capital which was to be employed in those improvements of which the returns are the most slow and distant, such as the improvements of land. To promote such improvements was even said to be the chief of the public-spirited purposes for which it was instituted. By its liberality in granting cash accounts, and in discounting bills of exchange, it, no doubt, issued great quantities of its bank notes. But those bank notes being, the greater part of them, over and above what the circulation of the country could easily absorb and employ, returned upon it, in order to be exchanged for gold and silver as fast as they were issued. Its coffers were never well filled. The capital which had been subscribed to this bank at two different subscriptions, amounted to one hundred and sixty thousand pounds, of which eighty per cent only was paid up. This sum ought to have been paid in at several different instalments. A great part of the proprietors, when they paid in their first instalment, opened a cash account with the bank; and the directors, thinking themselves obliged to treat their own proprietors with the same liberality with which they treated all other men, allowed many of them to borrow upon this cash account what they paid in upon all their subsequent instalments. Such payments, therefore, only put into one coffer what had the moment before been taken out of another. But had the coffers of this bank been filled ever so well, its excessive circulation must have emptied them faster than they could have been replenished by any other expedient but the ruinous one of drawing upon London, and when the bill became due, paying it, together with interest and commission, by another draft upon the same place. Its coffers having been filled so very ill, it is said to have been driven to this resource within a very few months after it began to do business. The estates of the proprietors of this bank were worth several millions, and by their subscription to the original bond or contract of the bank, were really pledged for answering all its engagements. By means of the great credit which so great a pledge necessarily gave it, it was, notwithstanding its too liberal conduct, enabled to carry on business for more than two years. When it was obliged to stop, it had in the circulation about two hundred thousand pounds in bank notes. In order to support the circulation of those notes which were continually returning upon it as fast they were issued, it had been constantly in the practice of drawing bills of exchange upon London, of which

the number and value were continually increasing, and, when it stopped, amounted to upwards of six hundred thousand pounds. This bank, therefore, had, in little more than the course of two years, advanced to different people upwards of eight hundred thousand pounds at five per cent. Upon the two hundred thousand pounds which it circulated in bank notes, this five per cent might, perhaps, be considered as clear gain, without any other deduction besides the expense of management. But upon upwards of six hundred thousand pounds, for which it was continually drawing bills of exchange upon London, it was paying, in the way of interest and commission, upwards of eight per cent, and was consequently losing more than three per cent upon more than three-fourths of all its dealings.

The operations of this bank seem to have produced effects quite opposite to those which were intended by the particular persons who planned and directed it. They seem to have intended to support the spirited undertakings, for as such they considered them, which were at that time carrying on in different parts of the country; and at the same time, by drawing the whole banking business to themselves, to supplant all the other Scotch banks, particularly those established in Edinburgh, whose backwardness in discounting bills of exchange had given some offence. This bank, no doubt, gave some temporary relief to those projectors, and enabled them to carry on their projects for about two years longer than they could otherwise have done. But it thereby only enabled them to get so much deeper into debt, so that, when ruin came, it fell so much the heavier both upon them and upon their creditors. The operations of this bank, therefore, instead of relieving, in reality aggravated in the long-run the distress which those projectors had brought both upon themselves and upon their country. It would have been much better for themselves, their creditors, and their country, had the greater part of them been obliged to stop two years sooner than they actually did. The temporary relief, however, which this bank afforded to those projectors, proved a real and permanent relief to the other Scotch banks. All the dealers in circulating bills of exchange, which those other banks had become so backward in discounting, had recourse to this new bank, where they were received with open arms. Those other banks, therefore, were enabled to get very easily out of that fatal circle, from which they could not otherwise have disengaged themselves without incurring a considerable loss, and perhaps too even some degree of discredit.

In the long-run, therefore, the operations of this bank increased the real distress of the country which it meant to relieve; and effectually relieved from a very great distress those rivals whom it meant to supplant.

At the first setting out of this bank, it was the opinion of some people that how fast soever its coffers might be emptied, it might easily replenish them by raising money upon the securities of those to whom it had advanced its paper. Experience, I believe, soon convinced them that this method of raising money was by much too slow to answer their purpose; and that coffers which originally were so ill filled, and which emptied themselves so very fast, could be replenished by no other expedient but the ruinous one of drawing bills upon London, and when they became due, paying them by other drafts upon the same place with accumulated interest and commission. But though they had been able by this method to raise money as fast as they wanted it, yet, instead of making a profit, they must have suffered a loss by every such operation; so that in the long-run they must have ruined themselves as a mercantile company, though, perhaps, not so soon as by the more expensive practice of drawing and redrawing. They could still have made nothing by the interest of the paper, which, being over and above what the circulation of the country could absorb and employ, returned upon them, in order to be exchanged for gold and silver, as fast as they issued it; and for the payment of which they were themselves continually obliged to borrow money. On the contrary, the whole expense of this borrowing, of employing agents to look out for people who had money to lend, of negotiating with those people, and of drawing the proper bond or assignment, must have fallen upon them, and have been so much clear loss upon the balance of their accounts. The project of replenishing their coffers in this manner may be compared to that of a man who had a water-pond from which a stream was continually running out, and into which no stream was continually running, but who proposed to keep it always equally full by employing a number of people to go continually with buckets to a well at some miles distance in order to bring water to replenish it.

But though this operation had proved not only practicable but profitable to the bank as a mercantile company, yet the country could have derived no benefit from it; but, on the contrary, must have suffered a very considerable loss by it. This operation could not augment in the smallest degree the quantity of money to be lent. It could only have erected this bank into a sort of general loan office for the whole country. Those who wanted to borrow must have applied to this bank instead of applying to the private persons who had lent it their money. But a bank which lends money perhaps to five hundred different people, the greater part of whom its directors can know very little about, is not likely to be more judicious in the choice of its debtors than a private person who lends out his money among a few people whom he knows, and in whose sober and frugal conduct he thinks he has good reason to confide. The debtors of such a bank as that whose conduct I have been giving some account of were likely, the greater part of them, to be chimerical projectors, the drawers and re-drawers of circulating bills of exchange, who would employ the money in extravagant undertakings, which, with all the assistance that could be given them, they would probably never be able to complete, and which, if they should be completed, would never repay the expense which they had really cost, would never afford a fund capable of maintaining a quantity of labour equal to that which had been employed about them. The sober and frugal debtors of private persons, on the contrary, would be more likely to employ the money borrowed in sober undertakings which were proportioned to their capitals, and which, though they might have less of the grand and the marvellous, would have more of the solid and the profitable, which would repay with a large profit whatever had been laid out upon them, and which would thus afford a fund capable of maintaining a much greater quantity of labour than that which had been employed about them. The success of this operation, therefore, without increasing in the smallest degree the capital of the country, would only have transferred a great part of it from prudent and profitable to imprudent and unprofitable undertakings.

That the industry of Scotland languished for want of money to employ it was the opinion of the famous Mr. Law. By establishing a bank of a particular kind, which he seems to have imagined might issue paper to the amount of the whole value of all the lands in the country, he proposed to remedy this want of money. The Parliament of Scotland, when he first proposed his project, did not think proper to adopt it. It was afterwards adopted, with some variations, by the Duke of Orleans, at that time Regent of France. The idea of the possibility of multiplying paper to almost any extent was the real foundation of what is called the Mississippi scheme, the most extravagant project both of banking and stock-jobbing that, perhaps, the world ever saw. The different operations of this scheme are explained so fully, so clearly, and with so much order and distinctness, by Mr. du Verney, in his Examination of the Political Reflections upon Commerce and Finances of Mr. du Tot, that I shall not give any account of them. The principles upon which it was founded are explained by Mr. Law himself, in a discourse concerning money and trade, which he published in Scotland when he first proposed his project. The splendid but visionary ideas which are set forth in that and some other works upon the same principles still continue to make an impression upon many people, and have, perhaps, in part, contributed to that excess of banking which has of late been complained of both in Scotland and in other places.

The Bank of England is the greatest bank of circulation in Europe. It was incorporated, in pursuance of an act of Parliament, by a charter under the Great Seal, dated the 27th of July, 1694. It at that time advanced to government the sum of one million two hundred thousand pounds, for an annuity of one hundred thousand pounds; or for £96,000 a year interest, at the rate of eight per cent, and £4000 a year for the expense of management. The credit of the new government, established by the Revolution, we may believe, must have been very low, when it was obliged to borrow at so high an interest.

In 1697 the bank was allowed to enlarge its capital stock by an engraftment of £1,001,171 10s. Its whole capital stock therefore, amounted at this time to £2,201,171 10s. This engraftment is said to have been for the support of public credit. In 1696, tallies had been at forty, and fifty, and sixty per cent discount, and bank notes at twenty per cent. During the great recoinage of the silver, which was going on at this time, the bank had thought proper to discontinue the payment of its notes, which necessarily occasioned their discredit.

In pursuance of the 7th Anne, c. 7, the bank advanced and paid into the exchequer the sum of £400,000; making in all the sum of £1,600,000 which it had advanced upon its original annuity of £96,000 interest and £4000 for expense of management. In 1708, therefore, the credit of government was as good as that of private persons, since it could borrow at six per cent interest the common legal and market rate of those times. In pursuance of the same act, the bank cancelled exchequer bills to the amount of £1,775,027 17s. 10 1/2d. at six per cent interest, and was at the same time allowed to take in subscriptions for doubling its capital. In 1708, therefore, the capital of the bank amounted to £4,402,343; and it had advanced to government the sum of £3,375,027 17s. 10 1/2d.

By a call of fifteen per cent in 1709, there was paid in and made stock £656,204 1s. 9d.; and by another of ten per cent in 1710, £501,448 12s. 11d. In consequence of those two calls, therefore, the bank capital amounted to £5,559,995 14s. 8d.

In pursuance of the 3rd George I, c. 8, the bank delivered up two millions of exchequer bills to be cancelled. It had at this time, therefore, advanced to government 17s. 10d. In pursuance of the 8th George I, c. 21, the bank purchased of the South Sea Company stock to the amount of 14,000,000; and in 1722, in consequence of the subscriptions which it had taken in for enabling it to make this purchase, its capital stock was increased by £3,400,000. At this time, therefore, the bank had advanced to the public £9,375,027 17s. 10 1/2d.; and its capital stock amounted only to £8,959,995 14s. 8d. It was upon this occasion that the sum which the bank had advanced to the public, and for which it received interest, began first to exceed its capital stock, or the sum for which it paid a dividend to the proprietors of bank stock; or, in other words, that the bank began to have an undivided capital, over and above its divided one. It has continued to have an undivided capital of the same kind ever since. In 1746, the bank had, upon different occasions, advanced to the public £11,686,800 and its divided capital had been raised by different calls and subscriptions to £10,780,000. The state of those two sums has continued to be the same ever since. In pursuance of the 4th of George III, c. 25, the bank agreed to pay to government for the renewal of its charter £110,000 without interest or repayment. This sum, therefore, did not increase either of those two other sums.

The dividend of the bank has varied according to the variations in the rate of the interest which it has, at different times, received for the money it had advanced to the public, as well as according to other circumstances. This rate of interest has gradually been reduced from eight to three per cent. For some years past the bank dividend has been at five and a half per cent.

The stability of the Bank of England is equal to that of the British government. All that it has advanced to the public must be lost before its creditors can sustain any loss. No other banking company in England can be established by act of Parliament, or can consist of more than six members. It acts, not only as an ordinary bank, but as a great engine of state. It receives and pays the greater part of the annuities which are due to the creditors of the public, it circulates exchequer bills, and it advances to government the annual amount of the land and malt taxes, which are frequently not paid up till some years thereafter. In those different operations, its duty to the public may sometimes have obliged it, without any fault of its directors, to overstock the circulation with paper money. It likewise discounts merchants' bills, and has, upon several different occasions, supported the credit of the principal houses, not only of England, but of Hamburg and Holland. Upon one occasion, in 1763, it is said to have advanced for this purpose, in one week, about £1,600,000, a great part of it in bullion. I do not, however, pretend to warrant either the

greatness of the sum, or the shortness of the time. Upon other occasions, this great company has been reduced to the necessity of paying in sixpences.

It is not by augmenting the capital of the country, but by rendering a greater part of that capital active and productive than would otherwise be so, that the most judicious operations of banking can increase the industry of the country. That part of his capital which a dealer is obliged to keep by him unemployed, and in ready money, for answering occasional demands, is so much dead stock, which, so long as it remains in this situation, produces nothing either to him or to his country. The judicious operations of banking enable him to convert this dead stock into active and productive stock; into materials to work upon, into tools to work with, and into provisions and subsistence to work for; into stock which produces something both to himself and to his country. The gold and silver money which circulates in any country, and by means of which the produce of its land and labour is annually circulated and distributed to the proper consumers, is, in the same manner as the ready money of the dealer, all dead stock. It is a very valuable part of the capital of the country, which produces nothing to the country. The judicious operations of banking, by substituting paper in the room of a great part of this gold and silver, enables the country to convert a great part of this dead stock into active and productive stock; into stock which produces something to the country. The gold and silver money which circulates in any country may very properly be compared to a highway, which, while it circulates and carries to market all the grass and corn of the country, produces itself not a single pile of either. The judicious operations of banking, by providing, if I may be allowed so violent a metaphor, a sort of waggon-way through the air, enable the country to convert, as it were, a great part of its highways into good pastures and corn-fields, and thereby to increase very considerably the annual produce of its land and labour. The commerce and industry of the country, however, it must be acknowledged, though they may be somewhat augmented, cannot be altogether so secure when they are thus, as it were, suspended upon the Daedalian wings of paper money as when they travel about upon the solid ground of gold and silver. Over and above the accidents to which they are exposed from the unskillfulness of the conductors of this paper money, they are liable to several others, from which no prudence or skill of those conductors can guard them.

An unsuccessful war, for example, in which the enemy got possession of the capital, and consequently of that treasure which supported the credit of the paper money, would occasion a much greater confusion in a country where the whole circulation was carried on by paper, than in one where the greater part of it was carried on by gold and silver. The usual instrument of commerce having lost its value, no exchanges could be made but either by barter or upon credit. All taxes having been usually paid in paper money, the prince would not have wherewithal either to pay his troops, or to furnish his magazines; and the state of the country would be much more irretrievable than if the greater part of its circulation had consisted in gold and silver. A prince, anxious to maintain his dominions at all times in the state in which he can most easily defend them, ought, upon this account, to guard, not only against that excessive multiplication of paper money which ruins the very banks which issue it; but even against that multiplication of it which enables them to fill the greater part of the circulation of the country with it.

The circulation of every country may be considered as divided into two different branches: the circulation of the dealers with one another, and the circulation between the dealers and the consumers. Though the same pieces of money, whether paper or metal, may be employed sometimes in the one circulation and sometimes in the other, yet as both are constantly going on at the same time, each requires a certain stock of money of one kind or another to carry it on. The value of the goods circulated between the different dealers, never can exceed the value of those circulated between the dealers and the consumers; whatever is bought by the dealers, being ultimately destined to be sold to the consumers. The circulation between the dealers, as it is carried on by wholesale, requires generally a pretty large sum for every particular transaction. That between the dealers and the consumers, on the contrary, as it is generally carried on by retail, frequently requires but very small ones, a shilling, or even a halfpenny, being often sufficient. But small sums circulate much faster than large ones. A shilling changes masters more frequently than a guinea, and a halfpenny more frequently than a shilling. Though the annual purchases of all the consumers, therefore, are at least equal in value to those of all the dealers, they can generally be transacted with a much smaller quantity of money; the same pieces, by a more rapid circulation, serving as the instrument of many more purchases of the one kind than of the other.

Paper money may be so regulated as either to confine itself very much to the circulation between the different dealers, or to extend itself likewise to a great part of that between the dealers and the consumers. Where no bank notes are circulated under ten pounds value, as in London, paper money confines itself very much to the circulation between the dealers. When a ten pound bank note comes into the hands of a consumer, he is generally obliged to change it at the first shop where he has occasion to purchase five shillings' worth of goods, so that it often returns into the hands of a dealer before the consumer has spent the fortieth part of the money. Where bank notes are issued for so small sums as twenty shillings, as in Scotland, paper money extends itself to a considerable part of the circulation between dealers and consumers. Before the Act of Parliament, which put a stop to the circulation of ten and five shilling notes, it filled a still greater part of that circulation. In the currencies of North America, paper was commonly issued for so small a sum as a shilling, and filled almost the whole of that circulation. In some paper currencies of Yorkshire, it was issued even for so small a sum as a sixpence.

Where the issuing of bank notes for such very small sums is allowed and commonly practised, many mean people are both enabled and encouraged to become bankers. A person whose promissory note for five pounds, or even for twenty shillings, would be rejected by everybody, will get it to be received without scruple when it is issued for so small a sum as a sixpence. But the frequent bankruptcies

to which such beggarly bankers must be liable may occasion a very considerable inconveniency, and sometimes even a very great calamity to many poor people who had received their notes in payment.

It were better, perhaps, that no bank notes were issued in any part of the kingdom for a smaller sum than five pounds. Paper money would then, probably, confine itself, in every part of the kingdom, to the circulation between the different dealers, as much as it does at present in London, where no bank notes are issued under ten pounds' value; five pounds being, in most parts of the kingdom, a sum which, though it will purchase, little more than half the quantity of goods, is as much considered, and is as seldom spent all at once, as ten pounds are amidst the profuse expense of London.

Where paper money, it is to be observed, is pretty much confined to the circulation between dealers and dealers, as at London, there is always plenty of gold and silver. Where it extends itself to a considerable part of the circulation between dealers and consumers, as in Scotland, and still more in North America, it banishes gold and silver almost entirely from the country; almost all the ordinary transactions of its interior commerce being thus carried on by paper. The suppression of ten and five shilling bank notes somewhat relieved the scarcity of gold and silver in Scotland; and the suppression of twenty shilling notes would probably relieve it still more. Those metals are said to have become more abundant in America since the suppression of some of their paper currencies. They are said, likewise, to have been more abundant before the institution of those currencies.

Though paper money should be pretty much confined to the circulation between dealers and dealers, yet banks and bankers might still be able to give nearly the same assistance to the industry and commerce of the country as they had done when paper money filled almost the whole circulation. The ready money which a dealer is obliged to keep by him, for answering occasional demands, is destined altogether for the circulation between himself and other dealers of whom he buys goods. He has no occasion to keep any by him for the circulation between himself and the consumers, who are his customers, and who bring ready money to him, instead of taking any from him. Though no paper money, therefore, was allowed to be issued but for such sums as would confine it pretty much to the circulation between dealers and dealers, yet, partly by discounting real bills of exchange, and partly by lending upon cash accounts, banks and bankers might still be able to relieve the greater part of those dealers from the necessity of keeping any considerable part of their stock by them, unemployed and in ready money, for answering occasional demands. They might still be able to give the utmost assistance which banks and bankers can, with propriety, give to traders of every kind.

To restrain private people, it may be said, from receiving in payment the promissory notes of a banker, for any sum whether great or small, when they themselves are willing to receive them, or to restrain a banker from issuing such notes, when all his neighbours are willing to accept of them, is a manifest violation of that natural liberty which it is the proper business of law not to infringe, but to support. Such regulations may, no doubt, be considered as in some respects a violation of natural liberty. But those exertions of the natural liberty of a few individuals, which might endanger the security of the whole society, are, and ought to be, restrained by the laws of all governments, of the most free as well as of the most despotical. The obligation of building party walls, in order to prevent the communication of fire, is a violation of natural liberty exactly of the same kind with the regulations of the banking trade which are here proposed.

A paper money consisting in bank notes, issued by people of undoubted credit, payable upon demand without any condition, and in fact always readily paid as soon as presented, is, in every respect, equal in value to gold and silver money; since gold and silver money can at any time be had for it. Whatever is either bought or sold for such paper must necessarily be bought or sold as cheap as it could have been for gold and silver.

The increase of paper money, it has been said, by augmenting the quantity, and consequently diminishing the value of the whole currency, necessarily augments the money price of commodities. But as the quantity of gold and silver, which is taken from the currency, is always equal to the quantity of paper which is added to it, paper money does not necessarily increase the quantity of the whole currency. From the beginning of the last century to the present time, provisions never were cheaper in Scotland than in 1759, though, from the circulation of ten and five shilling bank notes, there was then more paper money in the country than at present. The proportion between the price of provisions in Scotland and that in England is the same now as before the great multiplication of banking companies in Scotland. Corn is, upon most occasions, fully as cheap in England as in France; though there is a great deal of paper money in England, and scarce any in France. In 1751 and in 1752, when Mr. Hume published his Political Discourses, and soon after the great multiplication of paper money in Scotland, there was a very sensible rise in the price of provisions, owing, probably, to the badness of the seasons, and not to the multiplication of paper money.

It would be otherwise, indeed, with a paper money consisting in promissory notes, of which the immediate payment depended, in any respect, either upon the good will of those who issued them, or upon a condition which the holder of the notes might not always have it in his power to fulfil; or of which the payment was not exigible till after a certain number of years, and which in the meantime bore no interest. Such a paper money would, no doubt, fall more or less below the value of gold and silver, according as the difficulty or uncertainty of obtaining immediate payment was supposed to be greater or less; or according to the greater or less distance of time at which payment was exigible.

Some years ago the different banking companies of Scotland were in the practice of inserting into their bank notes, what they called an Optional Clause, by which they promised payment to the bearer, either as soon as the note should be presented, or, in the option of the directors, six months after such presentment, together with the legal interest for the said six months. The directors of some of those banks sometimes took advantage of this optional clause, and sometimes threatened those who demanded gold and silver in exchange for a considerable number of their notes that they Would take advantage of it, unless such demanders would content themselves with a part of what they demanded. The promissory notes of those banking companies constituted at that time the far greater part of the currency of Scotland, which this uncertainty of payment necessarily degraded below the value of gold and silver money. During the continuance of this abuse (which prevailed chiefly in 1762, 1763, and 1764), while the exchange between London and Carlisle was at par, that between London and Dumfries would sometimes be four per cent against Dumfries, though this town is not thirty miles distant from Carlisle. But at Carlisle, bills were paid in gold and silver; whereas at Dumfries they were paid in Scotch bank notes, and the uncertainty of getting those bank notes exchanged for gold and silver coin had thus degraded them four per cent below the value of that coin. The same Act of Parliament which suppressed ten and five shilling bank notes suppressed likewise this optional clause, and thereby restored the exchange between England and Scotland to its natural rate, or to what the course of trade and remittances might happen to make it.

In the paper currencies of Yorkshire, the payment of so small a sum as a sixpence sometimes depended upon the condition that the holder of the note should bring the change of a guinea to the person who issued it; a condition which the holders of such notes might frequently find it very difficult to fulfil, and which must have degraded this currency below the value of gold and silver money. An Act of Parliament accordingly declared all such clauses unlawful, and suppressed, in the same manner as in Scotland, all promissory notes, payable to the bearer, under twenty shillings value.

The paper currencies of North America consisted, not in bank notes payable to the bearer on demand, but in government paper, of which the payment was not exigible till several years after it was issued; and though the colony governments paid no interest to the holders of this paper, they declared it to be, and in fact rendered it, a legal tender of payment for the full value for which it was issued. But allowing the colony security to be perfectly good, a hundred pounds payable fifteen years hence, for example, in a country where interest at six per cent, is worth little more than forty pounds ready money. To oblige a creditor, therefore, to accept of this as full payment for a debt of a hundred pounds actually paid down in ready money was an act of such violent injustice as has scarce, perhaps, been attempted by the government of any other country which pretended to be free. It bears the evident marks of having originally been, what the honest and downright Doctor Douglas assures us it was, a scheme of fraudulent debtors to cheat their creditors. The government of Pennsylvania, indeed, pretended, upon their first emission of paper money, in 1722, to render their paper of equal value with gold and silver by enacting penalties against all those who made any difference in the price of their goods when they sold them for a colony paper, and when they sold them for gold and silver; a regulation equally tyrannical, but much less effectual than that which it was meant to support. A positive law may render a shilling a legal tender for guinea, because it may direct the courts of justice to discharge the debtor who has made that tender. But no positive law can oblige a person who sells goods, and who is at liberty to sell or not to sell as he pleases, to accept of a shilling as equivalent to a guinea in the price of them. Notwithstanding any regulation of this kind, it appeared by the course of exchange with Great Britain, that a hundred pounds sterling was occasionally considered as equivalent, in some of the colonies, to a hundred and thirty pounds, and in others to so great a sum as eleven hundred pounds currency; this difference in the value arising from the difference in the quantity of paper emitted in the different colonies, and in the distance and probability of the term of its final discharge and redemption.

No law, therefore, could be more equitable than the Act of Parliament, so unjustly complained of in the colonies, which declared that no paper currency to be emitted there in time coming should be a legal tender of payment.

Pennsylvania was always more moderate in its emissions of paper money than any other of our colonies. Its paper currency, accordingly, is said never to have sunk below the value of the gold and silver which was current in the colony before the first emission of its paper money. Before that emission, the colony had raised the denomination of its coin, and had, by act of assembly, ordered five shillings sterling to pass in the colony for six and threepence, and afterwards for six and eightpence. A pound colony currency, therefore, even when that currency was gold and silver, was more than thirty per cent below the value of a pound sterling, and when that currency was turned into paper it was seldom much more than thirty per cent below that value. The pretence for raising the denomination of the coin, was to prevent the exportation of gold and silver, by making equal quantities of those metals pass for greater sums in the colony than they did in the mother country. It was found, however, that the price of all goods from the mother country rose exactly in proportion as they raised the denomination of their coin, so that their gold and silver were exported as fast as ever.

The paper of each colony being received in the payment of the provincial taxes, for the full value for which it had been issued, it necessarily derived from this use some additional value over and above what it would have had from the real or supposed distance of the term of its final discharge and redemption. This additional value was greater or less, according as the quantity of paper issued was more or less above what could be employed in the payment of the taxes of the particular colony which issued it. It was in all the colonies very much above what could be employed in this manner.

A prince who should enact that a certain proportion of his taxes should be paid in a paper money of a certain kind might thereby give a certain value to this paper money, even though the term of its final discharge and redemption should depend altogether upon the will of

the prince. If the bank which issued this paper was careful to keep the quantity of it always somewhat below what could easily be employed in this manner, the demand for it might be such as to make it even bear a premium, or sell for somewhat more in the market than the quantity of gold or silver currency for which it was issued. Some people account in this manner for what is called the Agio of the bank of Amsterdam, or for the superiority of bank money over current money; though this bank money, as they pretend, cannot be taken out of the bank at the will of the owner. The greater part of foreign bills of exchange must be paid in bank money, that is, by a transfer in the books of the bank; and the directors of the bank, they allege, are careful to keep the whole quantity of bank money always below what this use occasions a demand for. It is upon this account, they say, that bank money sells for a premium, or bears an agio of four or five per cent above the same nominal sum of the gold and silver currency of the country. This account of the bank of Amsterdam, however, it will appear hereafter, is in a great measure chimerical.

A paper currency which falls below the value of gold and silver coin does not thereby sink the value of those metals, or occasion equal quantities of them to exchange for a smaller quantity of goods of any other kind. The proportion between the value of gold and silver and that of goods of any other kind depends in all cases not upon the nature or quantity of any particular paper money, which may be current in any particular country, but upon the richness or poverty of the mines, which happen at any particular time to supply the great market of the commercial world with those metals. It depends upon the proportion between the quantity of labour which is necessary in order to bring a certain quantity of gold and silver to market, and that which is necessary in order to bring thither a certain quantity of any other sort of goods.

If bankers are restrained from issuing any circulating bank notes, or notes payable to the bearer, for less than a certain sum, and if they are subjected to the obligation of an immediate and unconditional payment of such bank notes as soon as presented, their trade may, with safety to the public, be rendered in all other respects perfectly free. The late multiplication of banking companies in both parts of the United Kingdom, an event by which many people have been much alarmed, instead of diminishing, increases the security of the public. It obliges all of them to be more circumspect in their conduct, and, by not extending their currency beyond its due proportion to their cash, to guard themselves against those malicious runs which the rivalry of so many competitors is always ready to bring upon them. It restrains the circulation of each particular company within a narrower circle, and reduces their circulating notes to a smaller number. By dividing the whole circulation into a greater number of parts, the failure of any one company, an accident which, in the course of things, must sometimes happen, becomes of less consequence to the public. This free competition, too, obliges all bankers to be more liberal in their dealings with their customers, lest their rivals should carry them away. In general, if any branch of trade, or any division of labour, be advantageous to the public, the freer and more general the competition, it will always be the more so.

"The Act of Parliament by which the Bank was established is called "An Act for granting to their Majesties several Rates and Duties upon Tunnages of Ships and Vessels, and upon Beer, Ale, and other Liquors; for securing certain Recompenses and Advantages, in the said Act mentioned, to such persons as shall voluntarily advance the Sum of Fifteen hundred thousand Pounds towards carrying on the war against France." After various articles referring to the imposition of taxes, the Act authorised the raising of £1,200,000 by subscription, the subscribers forming a corporation to be called, "The Governor and Company of the Bank of England." No person might subscribe more than £10,000 before the 1st of July following, and even after this date no individual subscription might exceed £20,000. The corporation was to lend the whole of its capital to the Government, and in return it was to be paid interest at the rate of 8 per cent., and £4,000 for expenses of management, in all £100,000 per annum. The corporation was to have the privileges of a bank for twelve years, then the Government reserved the right of annulling the charter after giving one year's notice to the company. The corporation were not authorised to borrow or owe more than their capital; if they did so, the members became personally liable in proportion to the amount of their stock. The corporation were forbidden to trade in any merchandise whatever, but "they were allowed to deal in bills of exchange, gold or silver bullion, and to sell any wares or merchandise upon which they had advanced money, and which had not been redeemed within three months after the time agreed upon." The subscription list was opened at the Mercers' Chapel, then the headquarters of the corporation, on Thursday, June 21, 1694...After this great success the Charter of Incorporation was granted on July 27, 1694." – *History of the Bank of England: 1640 to 1903* by Dr. A. Andreades, p. 72-74

Excerpts from *Taxation in Colonial America* by Alvin Rabushka, Chapter 10 (p. 297-299)

"The mechanism of credit established through the Bank of England merits explanation. In May 1694, the Ways and Means Act granted a charter to the Bank of England. The bank was to lend the government £1,200,000 at 8 percent interest, a moderate rate given the government's dire financial straits. In return, the bank was to be given the privilege of registering as a joint-stock company. This was an enormous concession because all other banks were required to operate as individuals or partnerships on the basis of unlimited liability to their individual proprietors. The proprietors of the Bank of England, in contrast, did not face personal liability on their private funds. Their risk was limited to the capital invested in the bank. The bank enjoyed this advantage for more than a century. The newly chartered bank was empowered to do ordinary banking business of receiving deposits and creating a credit currency.

The bank was both a bank of issue and a bank of deposit. The original plan put before a parliamentary committee in 1693 contained an explicit reference to the right of note issue, but this was a point of contention. As a result, the act of 1694 contains no reference to bank notes and only one to bank bills. It envisaged that the bank would accept deposits and borrow on bills, but that borrowing should never exceed the sum of £1,200,000 at any one time, the amount the bank would raise and lend to the government, unless it be by an act of Parliament upon funds agreed in Parliament. In this restriction, the act appears to limit the bill liabilities of the bank to £1,200,000. It was not clear if the bank could legally owe more than £1,200,000 upon its notes. Other provisions forbade the purchase of crown lands or lending to the Crown without parliamentary consent. A perpetual fund of interest, 8 percent on the £1,200,000, payable to the subscribers from the ships' tonnage and liquor duties levied under the act, was set at £100,000, tax free. No individual was permitted to subscribe more than £20,000, and a quarter of all subscriptions was to be paid in prompt cash. Individuals were to be personally liable for any debts of the bank exceeding its capital of £1,200,000.

The bank's capital of £1,200,000 was subscribed within twelve days. The subscribers became a corporation called the Governor and Company of the Bank of England. Only 60 percent of the subscription, £720,000, was called up immediately by the governors of the bank. The bank made its loan to the government in installments. On August 1, 1694, it gave the government £720,000 in cash, in a combination of drafts on other banks and £480,000 in notes under the seal of the bank, which became known as "sealed bank bills." In return, the bank took the government's promise to repay in the form of interest-bearing tallies (bonds, or government stock). From August 22, treasury orders for the spending of the money began. By year's end, the full sum had been advanced to the government. However, as of January 1, 1695, the remaining £480,000 of shareholders' subscriptions had not been called in and remained available for future banking activities. Moreover, even some of the £720,000 existed in the form of subscribers bonds that the bank reckoned, optimistically, as cash.

On receipt of the loan, the government used the bank's notes to purchase supplies for the army...Bank of England sealed bank bills assured the king of purchasing power. The bank, in turn, was guaranteed interest by a specific act of Parliament. For £100,000 in earmarked tax revenue, the government of England could spend £1,200,000. For their part, the bank's shareholders received a dividend of 6 percent in the first half year, a double-digit return on an annualized basis.

The bank raised additional capital from its acceptance of deposits and the circulation of sealed bills in addition to those it gave the government as part of the original £1,200,000. More important to the profitability of the bank and its ability to create additional credit for the government and private commerce was if its total borrowing was limited to £1,200,000 as stated in the act of 1694. The governor of the bank tried but failed in 1695 to negotiate a clause in the act that would permit an issue of sealed bills in excess of £1,200,000. A court ruling declared that new bills could be issued only as old bills were retired. However, the court ruled that the limit applied only to sealed bills, not to the less formal "running cash notes" of the bank, which lacked the corporate seal and were merely signed by the cashier. Excluding running cash notes from the limit amounted to a license to print money, literally cash, subject to the prudential judgement of the bank's managers. Forms were printed with blanks for names, amounts, and the cashier's signature. These cash notes, nicknamed "Speed's notes" from the name of the cashier, were issued, circulated freely, and were accepted at full face value. They were deemed as secure as the sealed bills backed by the bank's share capital and government tallies or loans. The combined issue of sealed bills and cash notes quickly exceeded the authorized subscribed capital and borrowing on bills. Credit could be created to the extent that the public accepted bank paper as good currency."

Excerpts from *Taxation in Colonial America* by Alvin Rabushka, Chapter 10 (p. 286-287):

In January 1672 the Crown faced bankruptcy, which prompted a stop of the Exchequer, the freezing of all repayment for a year from January 1, 1672, on Orders issued before December 18, 1671. Orders amounting to £1,100,000 rested on the ordinary revenue. Repayment of Orders would have reduced the Crown's disposable income in 1672 to £400,000, an intolerably low level. The stop temporarily relieved repayment of £1,200,000. The memory of the stop, which ruined several goldsmiths and other small lenders, was not quickly forgotten. Its damage constrained government credit operations during the remainder of Charles's reign and the brief rule of his brother, James.

William's expenditures in Ireland and far greater military outlays in Europe as he involved England in what became more than a century-long struggle against France on the continent and in America required funds above and beyond grants of Parliament. This circumstance provided an opportunity for a group of men who proposed the creation of a private, joint-stock bank that would have some of the powers of a national bank, especially the issue of bank notes. After discussions between the founders of the proposed bank, the Privy Council in the presence of Queen Mary, and a committee of Parliament, an agreement was eventually reached in the Ways and Means Act of 1694 that authorized the creation of the Bank of England.

The previous system of granting credit directly to the monarch was replaced with loans made to the state, with debt service guaranteed by specific taxes on acts of Parliament. Parliament, not the king's tax collectors, guaranteed public debt. It passed the Tonnage Act of 1694 to guarantee annual interest of £100,000 on a loan of £1,200,000 to the government made by the new Bank of England. Parliament's approval of earmarked taxes to guarantee payment of interest on loans to the state created a bond market in which individuals could securely invest in government stock, the English term for long-term government bonds. The Bank of England in conjunction with the Tonnage Act marked the beginning of an official national debt, which would grow by leaps and bounds in the eighteenth century. Crown acquiescence in the supremacy of Parliament with Parliament's statutory guarantee of interest and capital redemption transformed the previous insecurity of lending to the government through personal loans, tallies, and Orders with the generally safe investment of purchasing government bonds.

The credit revolution of 1694 allowed the government of England to live beyond its means – to spend more than it collected in taxes each year. The creation of credit at low rates of interest enabled the government to engage in lengthy wars costing millions of pounds without having to subject English taxpayers at once to their full cost. As debt and debt service piled up, the consequences of steadily rising taxes would lead England into war with its American colonies later in the eighteenth century.

Excerpts from *History of the Bank of England* by Dr. A. Andreades (p. 65-67)

The plan now was to raise £1,200,000 to be lent to the Government in return for a yearly interest of £100,000. The subscribers to the loan were to form a corporation with the right to issue notes up to the value of its total capital. The corporation was to be called, "The Governor and Company of the Bank of England."

Paterson wrote a pamphlet demonstrating the economic principles on which the future Bank of England was to rest.

He notes the old mistake "that the stamp or denomination gives or adds to the value of money." The fallacy contained in this was pointed out by those who had suggested the foundation of the Bank some years earlier. Its promoters had seen that the institution ought to be based on the following principles:

"1. That all money or credit not having an intrinsic value, to answer the contents or denomination thereof, is false and counterfeit, and the loss must fall one where or other.

"2. That the species of gold and silver being accepted, and chosen by the commercial world for the standard, or measure, of other effects, everything else is only accounted valuable as compared with these.

"3. Wherefore all credit not founded on the universal species of gold and silver is impracticable, and can never subsist neither safely nor long, *at least till some other species of credit be found out and chosen by the trading part of mankind over and above or in lieu thereof.*"

After describing the strong position of the Bank and its prospects of success, and stating that no dividend would be paid without several months' notice, in order to give the shareholders the choice of selling or retaining their shares, Paterson remarks that "The politicians ... distinguish between the interest of *land and trade*, as they have lately done between that of a king and his people," but "if the proprietors of the Bank can circulate their own *foundation* [sic] of twelve hundred thousand pounds without having more than two or three hundred thousand pounds lying dead at one time with another, this Bank will be in effect as nine hundred thousand pounds or a million of fresh money brought into the nation."

There had been an interval of seven years between the two publications, and during this time an event had occurred which, to judge by other countries, must have exercised considerable influence on the development of banks in England. I refer to the return of the Jews.

The return of the Jews to England. Its influence on banking. – The effect of the influx of Spanish Jews on the development of Dutch commerce is well known. The influence of the Jews at Venice was no less marked. It was two Jews who first (in 1400) obtained the authority of the Senate to found a bank in the strict sense of the word. Their success was so great that many Venetian nobles established rival institutions. Abuses followed which, combined with monetary difficulties, determined the Government to establish the Bank of Venice.

The same influence must have made itself felt in England. But at what date? In other words, when and for what reason were the Jews authorised to return to England? We will proceed to consider this question; it is not altogether easy to answer it.

It is certain that as soon as Charles I. was dead, the Jews attempted to return to England. Public opinion was not unfavourable to them, partly on account of the biblical spirit which then prevailed, and partly because of the services rendered by them in Holland, a country which the English of this period constantly set before them as a model. Thus Gardiner mentions the publication of a pamphlet about this time, in which in order to prove the importance of Dunkirk, it is stated that the Jews were prepared to give £60,000 to £80,000 in return for the toleration of a synagogue there, and that such permission would attract all the Portuguese merchants from Amsterdam, from which a still greater benefit would result. The Amsterdam merchants had not expected such demonstrations of sympathy. They took the initiative, and two of them presented a petition in 1649 to Fairfax and the Council, for the revocation of the banishment of the Jews.

Another petition is referred to by some historians. Certain Jews had asked for the repeal of the laws passed against them, and on condition that the Bodleian Library was made over to them, together with permission to convert St. Paul's Cathedral into a synagogue, they undertook to pay "six millions of livres" according to some, £500,000 according to others. It is stated that negotiations were broken off because the parties could not agree as to the price, the English Government asking eight millions or £800,000. It is unfortunate as far as concerns the authenticity of this tale, that the references given by the historians' are inadequate or erroneous, hence we only refer to it as a curiosity. These negotiations came to nothing. Mr. Wolf proves however, that notwithstanding this rebuff a number of Jews established themselves secretly in London in the time of the Commonwealth.

The situation improved still more during the Protectorate. Cromwell's ideas were in advance of his times, and as Mr. F. Harrison remarks, "Noble were the efforts of the Protector to impress his own spirit of toleration on the intolerance of his age; ... He effectively protected the Quakers; he admitted the Jews, after an expulsion of three centuries; and he satisfied Mazarin that he had given to Catholics all the protection that he dared." Cromwell was particularly well-disposed towards the Jews, with whom he had, according to M. Guizot, fairly frequent dealings. They seem to have done him numerous services. The Jews for their part were not unaware of the Protector's feeling towards them, and did their best to profit by it.

Rabbi Manasseh Ben Israel took the initiative in the matter. This Rabbi was a remarkable character. He was born in Portugal about 1604, but while still a child he emigrated with his family to Holland. There he became a brilliant student, wrote books, and even established the first Jewish printing press at Amsterdam. But his chief efforts were devoted to improving the lot of his co-religionists, and to securing their admission into the different European countries. In particular he tried by various means, such as petitions to the Protector, and even the dedication of his book, *Spes Israelis*, to the British Parliament, to obtain permission for the Jews to return to England.

A commission, presided over by Cromwell, was appointed to consider the question. It was composed of lawyers, priests and merchants. The debates were long-winded and threatened to be interminable. Cromwell consequently dissolved the assembly, remarking that the matter, complicated enough to start with, now appeared more intricate than ever, and that, "although he wished no more reasoning, he yet begged an interest in their prayers."

The conference was thus without result and Manasseh's hopes were apparently vain. As a matter of fact however, the Jews were tacitly allowed to live in England. Manasseh received a pension of £100 to console him for his disappointment. And three years later, on February 15th 1658, at a reception at Whitehall, Cromwell seems to have given an assurance of his protection to Carvajal and his coreligionists.

Whatever may be the truth about this latter point, it is probable that Cromwell took no legislative action with regard to the Jews, but it is certain that he tolerated their return, and that at the end of the Protectorate a number of them were living in England. They must have taken an active part in trade, for shortly afterwards a petition was signed by numerous merchants complaining that the Jews were not subject to the alien law, and that in consequence the Treasury suffered a yearly loss of £10,000.

Bank of the United States & Panic of 1837: Organized Crime?



The First Bank of the United States in Philadelphia. Thomas Jefferson opposed the establishment of the First Bank of the United States while Alexander Hamilton was in favor of the new central bank. Philadelphia was the capital of the United States of America from 1790 to 1800; New York City was the capital of the United States of America in 1789.

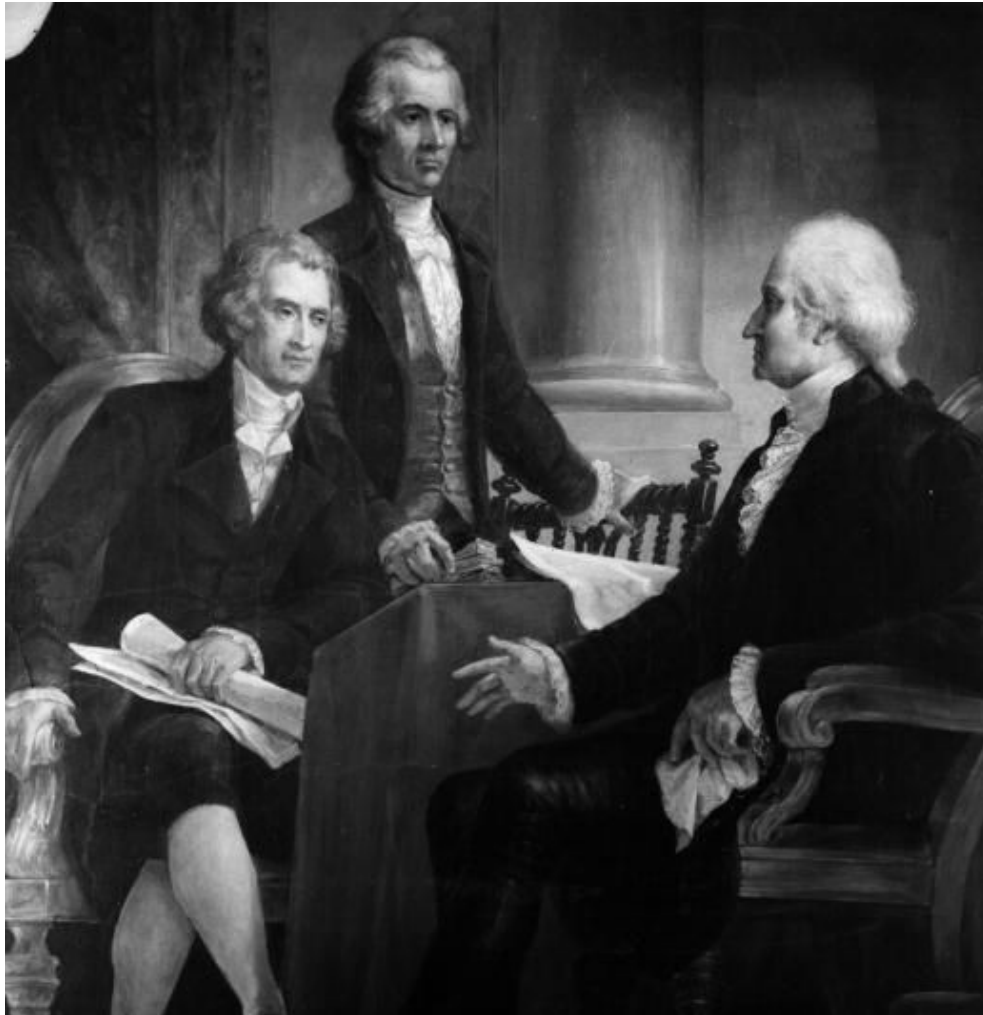
American National Debt from 1791 to 1866

January 1, 1791 - \$75,463,476.52	January 1, 1818 - \$103,466,633.83	July 1, 1843 - \$ 32,742,922.00
January 1, 1792 - \$77,227,924.66	January 1, 1819 - \$95,529,648.28	July 1, 1844 - \$ 23,461,652.50
January 1, 1793 - \$80,358,634.04	January 1, 1820 - \$91,015,566.15	July 1, 1845 - \$ 15,925,303.01
January 1, 1794 - \$78,427,404.77	January 1, 1821 - \$89,987,427.66	July 1, 1846 - \$ 15,550,202.97
January 1, 1795 - \$80,747,587.39	January 1, 1822 - \$93,546,676.98	July 1, 1847 - \$ 38,826,534.77
January 1, 1796 - \$83,762,172.07	January 1, 1823 - \$90,875,877.28	July 1, 1848 - \$ 47,044,862.23
January 1, 1797 - \$82,064,479.33	January 1, 1824 - \$90,269,777.77	July 1, 1849 - \$ 63,061,858.69
January 1, 1798 - \$79,228,529.12	January 1, 1825 - \$83,788,432.71	July 1, 1850 - \$ 63,452,773.55
January 1, 1799 - \$78,408,669.77	January 1, 1826 - \$81,054,059.99	July 1, 1851 - \$ 68,304,796.02
January 1, 1800 - \$82,976,294.35	January 1, 1827 - \$73,987,357.20	July 1, 1852 - \$ 66,199,341.71
January 1, 1801 - \$83,038,050.80	January 1, 1828 - \$67,475,043.87	July 1, 1853 - \$ 59,803,117.70
January 1, 1802 - \$80,712,632.25	January 1, 1829 - \$58,421,413.67	July 1, 1854 - \$ 42,242,222.42
January 1, 1803 - \$77,054,686.40	January 1, 1830 - \$48,565,406.50	July 1, 1855 - \$ 35,586,956.56
January 1, 1804 - \$86,427,120.88	January 1, 1831 - \$39,123,191.68	July 1, 1856 - \$ 31,972,537.90
January 1, 1805 - \$82,312,150.50	January 1, 1832 - \$24,322,235.18	July 1, 1857 - \$ 28,699,831.85
January 1, 1806 - \$75,723,270.66	January 1, 1833 - \$ 7,001,698.83	July 1, 1858 - \$ 44,911,881.03
January 1, 1807 - \$69,218,398.64	January 1, 1834 - \$ 4,760,082.08	July 1, 1859 - \$ 58,496,837.88
January 1, 1808 - \$65,196,317.97	January 1, 1835 - \$ 33,733.05	July 1, 1860 - \$ 64,842,287.88
January 1, 1809 - \$57,023,192.09	January 1, 1836 - \$ 37,513.05	July 1, 1861 - \$ 90,580,873.72
January 1, 1810 - \$53,173,217.52	January 1, 1837 - \$ 336,957.83	July 1, 1862 - \$ 524,176,412.13
January 1, 1811 - \$48,005,587.76	January 1, 1838 - \$ 3,308,124.07	July 1, 1863 - \$1,119,772,138.63
January 1, 1812 - \$45,209,737.90	January 1, 1839 - \$10,434,221.14	July 1, 1864 - \$1,815,784,370.57
January 1, 1813 - \$55,962,827.57	January 1, 1840 - \$ 3,573,343.82	July 1, 1865 - \$2,680,647,869.74
January 1, 1814 - \$81,487,846.24	January 1, 1841 - \$ 5,250,875.54	July 1, 1866 - \$2,773,236,173.69
January 1, 1815 - \$99,833,660.15	January 1, 1842 - \$13,594,480.73	
January 1, 1816 - \$127,334,933.74	January 1, 1843 - \$20,201,226.27	
January 1, 1817 - \$123,491,965.16		

Note: War of 1812 (1812-1814), Seminole War (1835-1842), Mexican War (1846-1848), American Civil War (1861-1865)

Source: http://www.treasurydirect.gov/govt/reports/pd/histdebt/histdebt_histo3.htm

First Bank of the United States



U.S. Secretary of State Thomas Jefferson (left) and Treasury Secretary Alexander Hamilton (center) confer with President George Washington in Philadelphia circa 1790-1793.

(Oil mural, 1870-73, by Constantino Brumidi, in the Senate Reception Room U.S. Capitol, Architect of the Capitol)

The U.S. Senate voted in favor of establishing the First Bank of the United States on January 20, 1791. The U.S. House of Representatives voted to establish the First Bank of the United States by a vote of 39 to 20 (with 6 politicians absent) on February 8, 1791. George Washington requested that Thomas Jefferson and Alexander Hamilton submit their opinions on the Bank of the United States in February 1791; after reviewing their opinions, President Washington agreed with Hamilton's opinion on the Bank of the United States and signed the Bank bill into law on February 25, 1791.

Yeas and Nays in the U.S. House of Representatives on February 8, 1791

 <p>Elbridge T. Gerry B.A. Harvard 1762 U.S. Congressman (Anti-Administration- Mass., 1789-1793) Yea</p>	 <p>Roger Sherman U.S. Congressman (Pro-Administration- Connecticut, 1789-1791) Yea</p>	 <p>Jonathan Trumbull Jr. B.A. Harvard 1759 U.S. Congressman (Federalist-Connecticut, 1789-1795) Yea</p>	 <p>Abraham Baldwin B.A. Yale 1772 U.S. Congressman (Democratic Republican- Georgia, 1789-1799) Nay</p>	 <p>James Madison A.B. Princeton 1771 U.S. Congressman (Republican-Virginia, 1789-1797) Nay</p>
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Roll Call in the U.S. House of Representatives on the Bank of the United States bill (February 8, 1791)

Yea:

Fisher Ames (B.A. Harvard 1774) – U.S. Congressman (Federalist-Massachusetts, 1789-1797)
Egbert Benson (B.A. Columbia 1765) – U.S. Congressman (Federalist-New York, 1789-1793, 1813)
Elias Boudinot – U.S. Congressman (Pro-Administration-New Jersey, 1789-1795); Director of the Mint (1795-1805)
Benjamin Bourne (B.A. Harvard 1775) – U.S. Congressman (Federalist-Rhode Island, 1790-1796)
Lambert Cadwalader – U.S. Congressman (Pro-Administration-New Jersey, 1789-1791, 1793-1795)
George Clymer – U.S. Congressman (Pro-Adm.-Pennsylvania, 1789-1791); signed the Declaration of Independence and Constitution
Thomas Fitzsimons – U.S. Congressman (Pro-Adm.-Pennsylvania, 1789-1795); director of Bank of North America; signed the Constitution
William Floyd – U.S. Congressman (Anti-Administration-New York, 1789-1791); signed the Declaration of Independence
Abiel Foster (B.A. Harvard 1756) – U.S. Congressman (Federalist-New Hampshire, 1789-1791, 1795-1803)
Elbridge Gerry (B.A. Harvard 1762) – U.S. Congressman (Anti-Adm.-Massachusetts, 1789-1793); signed the Declaration of Independence
Nicholas Gilman – U.S. Congressman (New Hampshire, 1789-1797); signed the Constitution
Benjamin Goodhue (B.A. Harvard 1766) – U.S. Congressman (Federalist-Massachusetts, 1789-1796)
Thomas Hartley – U.S. Congressman (Pro-Administration-Pennsylvania, 1789-1800)
John Hathorn – U.S. Congressman (Anti-Administration-New York, 1789-1791, 1795-1797)
Daniel Hiester – U.S. Congressman (Anti-Administration, Pennsylvania, 1789-1796); U.S. Congressman (Republican-Maryland, 1801-1804)
Benjamin Huntington (B.A. Yale 1761) – U.S. Congressman (Pro-Administration-Connecticut, 1789-1791)
John Laurence – U.S. Congressman (Federalist-New York, 1789-1793)
George Leonard (B.A. Harvard 1748) – U.S. Congressman (Federalist-Massachusetts, 1789-1793, 1795-1797)
Samuel Livermore (A.B. Princeton 1752) – U.S. Congressman (Pro-Administration, New Hampshire, 1789-1793)
John Peter Gabriel Muhlenberg – U.S. Congressman (Pennsylvania, 1789-1791, 1793-1795, 1799-1801); U.S. Senator (Pennsylvania, 1801)
George Partridge (B.A. Harvard 1762) – U.S. Congressman (Pro-Administration-Massachusetts, March 4, 1789-August 14, 1790)
Jeremiah Van Rensselaer (A.B. Princeton 1758) – U.S. Congressman (New York, 1789-1791)
James Schureman (B.A. Rutgers College 1775) – U.S. Congressman (Federalist-New Jersey, 1789-1791, 1797-1799, 1813-1815)
Thomas Scott – U.S. Congressman (Pro-Administration-Pennsylvania, 1789-1791, 1793-1795)
Theodore Sedgwick (B.A. Yale 1765) – U.S. Congressman (Federalist-Massachusetts, 1789-1796, 1799-1801)
Joshua Seney (B.A. University of Pennsylvania 1773) – U.S. Congressman (Anti-Administration-Maryland, March 4, 1789-December 6, 1792)
John Sevier – U.S. Congressman (Pro-Adm.-North Carolina, June 16, 1790-March 3, 1791); Governor of Tennessee (1796-1801, 1803-1809)
Roger Sherman – U.S. Congressman (Pro-Administration-Connecticut, 1789-1791); signed the Declaration of Independence and Constitution
Peter Silvester – U.S. Congressman (Pro-Administration-New York, 1789-1793)
Thomas Sinnickson – U.S. Congressman (Pro-Administration-New Jersey, 1789-1791, 1797-1799)
William Smith – U.S. Congressman (Anti-Adm.-Maryland, 1789-1791); First Auditor of United States Treasury (July 16, 1791-Nov. 27, 1791)
William Loughton Smith – U.S. Congressman (Pro-Adm., South Carolina, 1789-1797); U.S. Minister to Portugal and Spain (1797-1801)
John Steele – U.S. Congressman (Pro-Administration-North Carolina, April 19, 1790-March 3, 1793); Comptroller of the Treasury (1796-1802)
Jonathan Sturges (B.A. Yale 1759) – U.S. Congressman (Pro-Administration-Connecticut, 1789-1793)
George Thatcher (B.A. Harvard 1776) – U.S. Congressman (Federalist-Massachusetts, 1789-1801)
Jonathan Trumbull Jr. (B.A. Harvard 1759) – U.S. Congressman (Federalist-Connecticut, 1789-1795)
John Vining – U.S. Congressman (Pro-Administration-Delaware, 1789-1793); U.S. Senator (Delaware, 1793-1798)
Jeremiah Wadsworth – U.S. Congressman (Connecticut, March 4, 1789-March 3, 1795)
Henry Wynkoop – U.S. Congressman (Pennsylvania, March 4, 1789-March 3, 1791)

Nay:

John Baptista Ashe – U.S. Congressman (Anti-Administration-North Carolina, March 24, 1790-March 3, 1793)
Abraham Baldwin (B.A. Yale 1772) – U.S. Congressman (Democratic Republican-Georgia, 1789-1799); signed the Constitution
Timothy Bloodworth – U.S. Congressman (North Carolina, April 6, 1790-March 3, 1791; U.S. Senator (North Carolina, 1795-1801)
John Brown – U.S. Congressman (Virginia, March 4, 1789-June 1, 1792)
Aedanus Burke – U.S. Congressman (Anti-Administration-South Carolina, March 4, 1789-March 3, 1791)
Daniel Carroll – U.S. Congressman (Pro-Administration-Maryland, March 4, 1789-March 3, 1791); signed the Constitution
Benjamin Contee – U.S. Congressman (Anti-Administration-Maryland, March 4, 1789-March 3, 1791)
George Gale – U.S. Congressman (Pro-Administration-Maryland, March 4, 1789-March 3, 1791)
Jonathan Grout – U.S. Congressman (Anti-Administration-Massachusetts, March 4, 1789-March 3, 1791)
William Branch Giles (A.B. Princeton 1781) – U.S. Congressman (Democratic Republican-Virginia, 1790-1798, 1801-1803)
James Jackson – U.S. Congressman (Anti-Adm.-Georgia, 1789-1791); U.S. Senator (1793-1795, 1801-06); Governor of Georgia (1798-1801)
Richard Bland Lee – U.S. Congressman (Pro-Administration-Virginia, 1789-1795)
James Madison (A.B. Princeton 1771) – U.S. Congressman (Republican-Virginia, 1789-1797); signed the Constitution
George Mathews – U.S. Congressman (Anti-Administration-Georgia, 1789-1791); Governor of Georgia (1787, 1793-1796)
Andrew Moore – U.S. Congressman (Virginia, 1789-1797, 1804); U.S. Senator (Virginia, 1804-1809)
Josiah Parker – U.S. Congressman (Anti-Administration-Virginia, 1789-1801)
Michael Jenifer Stone – U.S. Congressman (Anti-Administration-Maryland, March 4, 1789-March 3, 1791)
Thomas Tudor Tucker – U.S. Congressman (South Carolina, 1789-1793); Treasurer of the United States (1801-1828)
Alexander White – U.S. Congressman (Virginia, 1789-1793)
Hugh Williamson (B.A. University of Pennsylvania 1757) – U.S. Congressman (Federalist-North Carolina, March 19, 1790-March 3, 1793)

Absent:

Isaac Coles – U.S. Congressman (Anti-Administration-Virginia, 1789-1791, 1793-1797)
Samuel Griffin – U.S. Congressman (Pro-Administration-Virginia, 1789-1795)
John Page (B.A. William and Mary 1763) – U.S. Congressman (Anti-Administration-Virginia, 1789-1797); Governor of Virginia (1802-1805)
Daniel Huger – U.S. Congressman (Pro-Administration-South Carolina, 1789-1793)
Thomas Sumter – U.S. Congressman (Dem. Republican-South Carolina, 1789-1793, 1797-1801); U.S. Senator (South Carolina, 1801-1810)
Frederick Augustus Conrad Muhlenberg – U.S. Congressman (Pro-Administration-Pennsylvania, 1789-1797); Speaker of the House of Representatives (1789-1791, 1793-1795); brother of John Peter Gabriel Muhlenberg

H. OF R.]

Bank of the United States.

[FEB. 9, 1791.]

It has been asked, that if those minute powers of the Constitution were thought to be necessary, is it supposable that the great and important power on the table was not intended to be given? Mr. M. interpreted this circumstance in a quite different way, viz: if it was thought necessary to specify in the Constitution those minute powers, it would follow that more important powers would have been explicitly granted, had they been contemplated.

The Western Territory business, he observed, was a case *sui generis*, and therefore cannot be cited with propriety. West Point, so often mentioned, he said, was purchased by the United States, pursuant to law, and the consent of the State of New York is supposed, if it has not been expressly granted; but, on any occasion, does it follow that one violation of the Constitution is to be justified by another?

The permanent residence bill, he conceived, was entirely irrelevant to the subject; but he conceived it might be justified on truly constitutional principles.

The act vesting in the President of the United States the power of removability has been quoted; he recapitulated, in a few words, his reasons for being in favor of that bill.

The Bank of North America he had opposed, as he considered the institution as a violation of the Confederation. The State of Massachusetts, he recollected, voted with him on that occasion. The Bank of North America was, however, the child of necessity; as soon as the war was over, it ceased to operate as to Continental purposes. But, asked he, are precedents in war to justify violations of private and State rights in a time of peace? And did the United States pass laws to punish the counterfeiting the notes of that bank? They did not, being convinced of the invalidity of any such law; the bank, therefore, took shelter under the authority of the State.

The energetic administration of this Government is said to be connected with this institution. Mr. M. here stated the principles on which he conceived this Government ought to be administered; and added, other gentlemen may have had other ideas on the subject, and may have consented to the ratification of the Constitution on different principles and expectations; but he considered the enlightened opinion and affection of the people the only solid basis for the support of this Government.

Mr. M. then stated his objections to the several parts of the bill. The first article he objected to was the duration. A period of twenty years was, to this country, as a period of a century in the history of other countries; there was no calculating for events which might take place. He urged the ill policy of granting so long a term, from the experience of the Government in respect to some treaties, which, though found inconvenient, could not now be altered.

The different classes of the public creditors, he observed, were not all put on an equal footing by this bill; but in the bill for the disposal

of the Western Territory this had been thought essential. The holders of six per cent. securities will derive undue advantages. Creditors at a distance, and the holders of three per cent. securities, ought to be considered, as the public good is most essentially promoted by an equal attention to the interest of all.

I admit, said he, that the Government ought to consider itself as the trustee of the public on this occasion, and therefore should avail itself of the best disposition of the public property.

In this view of the subject, he objected to the bill, as the public, he thought, ought to derive greater advantages from the institution than those proposed. In case of a universal circulation of the notes of the proposed bank, the profits will be so great that the Government ought to receive a very considerable sum for granting the charter.

There are other defects in the bill, which render it proper and necessary, in my opinion, that it should undergo a revision and amendment before it passes into a law. The power vested by the bill in the Executive to borrow of the bank, he thought was objectionable; and the right to establish subordinate banks ought not to be delegated to any set of men under Heaven.

The public opinion has been mentioned. If the appeal to the public opinion is suggested with sincerity, we ought to let our constituents have an opportunity to form an opinion on the subject.

He concluded by saying, he should move for the previous question.

The previous question, "Shall the main question now be put?" being determined in the affirmative,

MR. GERRY rose to reply to MR. MADISON; but the House discovering an impatience to have the main question put, after a few remarks, he waived any further observations.

The yeas and nays were then taken as follows, on the passage of the bill:

YEAS.—Messrs. AMES, Benson, Boudinot, Bourne, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, P. Muhlenberg, Partridge, Rensselaer, Schureman, Scott, Sedgwick, Seney, Sevier, Sherman, Sylvester, Sinickson, Smith, of Maryland, Smith, of South Carolina, Steele, Sturges, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—39.

NAYS.—Messrs. ASHE, Baldwin, Bloodworth, Brown, Burke, Carroll, Contee, Gale, Grout, Giles, Jackson, Lee, Madison, Matthews, Moore, Parker, Stone, Tucker, White, and Williamson.—20.

WEDNESDAY, February 9.

MR. HUNTINGTON, from the committee appointed for that purpose, reported a bill, for increasing the penalties contained in an act for the encouragement of learning, which was twice read and committed.

SENATE.]

Proceedings.

[JAN. 24, 1791.]

United States, accompanied with a Report from the Secretary of State on a complaint made by the French Government in relation to an extra tonnage on their vessels. This message was committed to Messrs. MORRIS, KING, IZARD, STRONG, and ELLSWORTH.

THURSDAY, JANUARY 20.

The Senate proceeded to the third reading of the bill to incorporate the subscribers to the Bank of —; and,

On motion to reconsider the term of incorporation, and limit it to the year 1801, instead of 1811; the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Few, Gunn, Hawkins, Izard, and Monroe.—6.

NAYS.—Messrs. Bassett, Dalton, Dickinson, Ellsworth, Elmer, Foster, Johnson, King, Langdon, MacLay, Morris, Read, Schuyler, Stanton, Strong, and Wingate.—16.

So it passed in the negative.

On motion to expunge the twelfth section, to wit:

“And be it further enacted, That no other bank shall be established, by any future law of the United States, during the continuance of the corporation hereby created; for which the faith of the United States is hereby pledged.”

The yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Butler, Few, Hawkins, Izard, and Monroe.—5.

NAYS.—Messrs. Bassett, Dalton, Dickinson, Ellsworth, Elmer, Foster, Gunn, Johnson, Johnston, King, Langdon, MacLay, Morris, Read, Schuyler, Stanton, Strong, and Wingate.—18.

And it passed in the negative.

Resolved, That this bill do pass; that the title of it be “An act to incorporate the subscribers to the Bank of the United States;” that it be engrossed, and that the Secretary carry it to the House of Representatives for concurrence.

A motion was made, “That the Secretary furnish any member of the Senate with such extracts from the Executive Journal as he may direct.”

Ordered, That the consideration of this motion be postponed until to-morrow.

FRIDAY, JANUARY 21.

CHARLES CARROLL, from the State of Maryland, attended.

A letter from the Secretary of State was communicated, with sundry enclosures, relative to the American prisoners in Algiers; which, being read,

Ordered, That they be referred to the committee who had under consideration that part of the message from the President of the United States, which refers to the trade of the Mediterranean; and that their report of the sixth of January be recommitted.

A message from the House of Representatives informed the Senate, that they have

“Ordered, That a committee be appointed, to join a committee of the Senate, to consider and report what time will be proper for the commencement of the next Congress; to the end that timely notice may be given to the members who are to serve for the ensuing two years.”

The order of the House of Representatives was read, and agreed to, and

Ordered, That Messrs. STRONG, IZARD, and ELLSWORTH, be of the Joint Committee on the part of the Senate; and that the Secretary communicate this appointment to the House of Representatives.

The memorial of the merchants of Philadelphia, trading to India and China, praying such encouragement and protection as in their wisdom Congress shall deem expedient, was, by Mr. MORRIS, presented and read; and

Ordered, That it lie for consideration.

The Senate resumed the consideration of the motion made yesterday, to wit:

1. *“That the Secretary furnish any member of the Senate with such extracts from the Executive Journal as he may direct;”*

And it was agreed to amend the motion to read as follows:

“Resolved, That the Secretary do furnish the members of the Senate, when required, with extracts of such parts of the Executive Journal as are not, by vote of the Senate, considered secret;”

And it was agreed that the motion be committed to Messrs. ELLSWORTH, GUNN, and KING.

Ordered, That the Secretary do furnish Mr. GUNN with an attested copy of sundry extracts from the records of the Senate, when acting in their Executive capacity.

MONDAY, JANUARY 24.

The following messages of the President of the United States were received and read:

Gentlemen of the Senate,

and House of Representatives.

I lay before you a statement relative to the frontiers of the United States, which has been submitted to me by the Secretary of the Department of War.

I rely upon your wisdom to make such arrangements as may be essential for the preservation of good order, and the effectual protection of the frontiers.

GEO. WASHINGTON.

UNITED STATES, JANUARY 24, 1791.


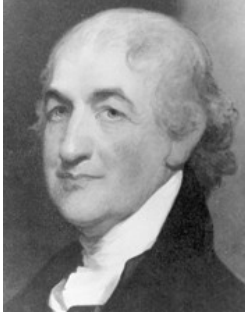







Ordered, That the Secretary communicate the message and papers accompanying it, to the House of Representatives.

Gentlemen of the Senate,

and House of Representatives.

In execution of the powers with which Congress were pleased to invest me, by their act entitled “An act for establishing the temporary and permanent seat of Government of the United States;” and, on mature consideration of the advantages and disadvantages of the several positions within the limits prescribed by the said act, I have, by a proclamation bearing date this day, (a copy of which is herewith transmitted,) directed commissioners, appointed in pursuance of the act, to survey and limit a part of the territory of

Yeas and Nays in the U.S. Senate on January 20, 1791

 <p>Tristram Dalton B.A. Harvard 1755 U.S. Senator (Pro-Administration-Massachusetts, 1789-1791) Yea</p>	 <p>Caleb Strong B.A. Harvard 1764 U.S. Senator (Pro-Administration-Massachusetts, 1789-1796) Yea</p>	 <p>Paine Wingate B.A. Harvard 1759 U.S. Senator (Anti-Administration, New Hampshire, 1789-1793) Yea</p>	 <p>Rufus King B.A. Harvard 1777 U.S. Senator (Federalist-New York, 1789-1796; 1813-1825); U.S. Minister to Great Britain (1796-1803, 1825-1826) Yea</p>	 <p>William Samuel Johnson B.A. Yale 1744 U.S. Senator (Federalist-Connecticut, 1789-1791); President of Columbia University (1787-1800) Yea</p>
 <p>Oliver Ellsworth A.B. Princeton 1766 U.S. Senator (Federalist-Connecticut, 1789-1796) Yea</p>	 <p>Theodore Foster A.B. Brown 1770 U.S. Senator (Federalist-Rhode Island, 1790-1803) Yea</p>	 <p>Robert Morris U.S. Senator (Pro-Administration-Pennsylvania, 1789-1795) Yea</p>	 <p>James Monroe U.S. Senator (Anti-Administration-Virginia, 1790-1794) Nay</p>	 <p>William Few U.S. Senator (Anti-Administration-Georgia, 1789-1793) Nay</p>

Note: Robert Morris was the national superintendent of finance (1781-1784) and was involved in the establishment of the Bank of North America, a private bank in Philadelphia. Robert Morris, informally known as the “financier of the American Revolution”, was one of the richest men in America. Robert Morris was imprisoned for debt from 1798 to 1801 due to his involvement in unsuccessful land speculations.

Note: William Few moved to New York City in 1799 and served as a Member of the New York State Assembly (1802-1805), New York State prison inspector (1802-1810), United States Commissioner of Loans (1804), director of the Manhattan Bank (1804-1814), President of the Manhattan Bank (1814), and Alderman of New York City (1813-1814). William Few served as a Member of the Continental Congress (1780-1782, 1786-1788).

James Madison, The Bank Bill, House of Representatives

2 Feb. 1791 *Papers 13:376--78*

The *third* clause is that which gives the power to pass all laws necessary and proper to execute the specified powers.

Whatever meaning this clause may have, none can be admitted, that would give an unlimited discretion to Congress.

Its meaning must, according to the natural and obvious force of the terms and the context, be limited to means *necessary* to the *end*, and *incident* to the *nature* of the specified powers.

The clause is in fact merely declaratory of what would have resulted by unavoidable implication, as the appropriate, and as it were, technical means of executing those powers. In this sense it had been explained by the friends of the constitution, and ratified by the state conventions.

The essential characteristic of the government, as composed of limited and enumerated powers, would be destroyed: If instead of direct and incidental means, any means could be used, which in the language of the preamble to the bill, "might be conceived to be conducive to the successful conducting of the finances; or might be *conceived to tend* to give *facility* to the obtaining of loans." He urged an attention to the diffuse and ductile terms which had been found requisite to cover the stretch of power contained in the bill. He compared them with the terms *necessary* and *proper*, used in the Constitution, and asked whether it was possible to view the two descriptions as synonymous, or the one as a fair and safe commentary on the other.

If, proceeded he, Congress, by virtue of the power to borrow, can create the means of lending, and in pursuance of these means, can incorporate a Bank, they may do any thing whatever creative of like means.

The East-India company has been a lender to the British government, as well as the Bank, and the South-Sea company is a greater creditor than either. Congress then may incorporate similar companies in the United States, and that too not under the idea of regulating trade, but under that of borrowing money.

Private capitals are the chief resources for loans to the British government. Whatever then may be conceived to favor the accumulation of capitals may be done by Congress. They may incorporate manufacturers. They may give monopolies in every branch of domestic industry.

If, again, Congress by virtue of the power to borrow money, can create the ability to lend, they may by virtue of the power to levy money, create the ability to pay it. The ability to pay taxes depends on the general wealth of the society, and this, on the general prosperity of agriculture, manufactures and commerce. Congress then may give bounties and make regulations on all of these objects.

The States have, it is allowed on all hands, a concurrent right to lay and collect taxes. This power is secured to them not by its being expressly reserved, but by its not being ceded by the constitution. The reasons for the bill cannot be admitted, because they would invalidate that right; why may it not be *conceived* by Congress, that an uniform and exclusive imposition of taxes, would not less than the proposed Banks "be *conducive* to the successful conducting of the national finances, and *tend to give facility* to the obtaining of revenue, for the use of the government?"

The doctrine of implication is always a tender one. The danger of it has been felt in other governments. The delicacy was felt in the adoption of our own; the danger may also be felt, if we do not keep close to our chartered authorities.

Mark the reasoning on which the validity of the bill depends. To borrow money is made the *end* and the accumulation of capitals, *implied* as the *means*. The accumulation of capitals is then the *end*, and a bank *implied* as the *means*. The bank is then the *end*, and a charter of incorporation, a monopoly, capital punishments, &c. *implied* as the *means*.

If implications, thus remote and thus multiplied, can be linked together, a chain may be formed that will reach every object of legislation, every object within the whole compass of political economy.

The latitude of interpretation required by the bill is condemned by the rule furnished by the constitution itself.

Congress have power "to regulate the value of money"; yet it is expressly added not left to be implied, that counterfeiters may be punished.

They have the power "to declare war," to which armies are more incident, than incorporated Banks, to borrowing; yet is expressly added, the power "to raise and support armies"; and to this again, the express power "to make rules and regulations for the government of armies"; a like remark is applicable to the powers as to a navy.

The regulation and calling out of the militia are more appurtenant to war, than the proposed bank, to borrowing; yet the former is not left to construction.

The very power to borrow money is a less remote implication from the power of war, than an incorporated monopoly bank, from the power of borrowing--yet the power to borrow is not left to implication.

It is not pretended that every insertion or omission in the constitution is the effect of systematic attention. This is not the character of any human work, particularly the work of a body of men. The examples cited, with others that might be added, sufficiently inculcate nevertheless a rule of interpretation, very different from that on which the bill rests. They condemn the exercise of any power, particularly a great and important power, which is not evidently and necessarily involved in an express power.

It cannot be denied that the power proposed to be exercised is an important power.

As a charter of incorporation the bill creates an artificial person previously not existing in law. It confers important civil rights and attributes, which could not otherwise be claimed. It is, though not precisely similar, at least equivalent, to the naturalization of an alien, by which certain new civil characters are acquired by him. Would Congress have had the power to naturalize, if it had not been expressly given?

In the power to make bye laws, the bill delegated a sort of legislative power, which is unquestionably an act of a high and important nature. He took notice of the only restraint on the bye laws, that they were not to be contrary to the law and the constitution of the bank; and asked what law was intended; if the law of the United States, the scantiness of their code would give a power, never before given to a corporation--and obnoxious to the States, whose laws would then be superceded not only by the laws of Congress, but by the bye laws of a corporation within their own jurisdiction. If the law intended, was the law of the State, then the State might make laws that would destroy an institution of the United States.

The bill gives a power to purchase and hold lands; Congress themselves could not purchase lands within a State "without the consent of its legislature." How could they delegate a power to others which they did not possess themselves?

It takes from our successors, who have equal rights with ourselves, and with the aid of experience will be more capable of deciding on the subject, an opportunity of exercising that right, for an immoderate term.

It takes from our constituents the opportunity of deliberating on the untried measure, although their hands are also to be tied by it for the same term.

It involves a monopoly, which affects the equal rights of every citizen.

It leads to a penal regulation, perhaps capital punishments, one of the most solemn acts of sovereign authority.

From this view of the power of incorporation exercised in the bill, it could never be deemed an accessory or subaltern power, to be deduced by implication, as a means of executing another power; it was in its nature a distinct, an independent and substantive prerogative, which not being enumerated in the constitution could never have been meant to be included in it, and not being included could never be rightfully exercised.

He here adverted to a distinction, which he said had not been sufficiently kept in view, between a power necessary and proper for the government or union, and a power necessary and proper for executing the enumerated powers. In the latter case, the powers included in each of the enumerated powers were not expressed, but to be drawn from the nature of each. In the former, the powers composing the government were expressly enumerated. This constituted the peculiar nature of the government, no power therefore not enumerated, could be inferred from the general nature of government. Had the power of making treaties, for example, been omitted, however necessary it might have been, the defect could only have been lamented, or supplied by an amendment of the constitution.

But the proposed bank could not even be called necessary to the government; at most it could be but convenient. Its uses to the government could be supplied by keeping the taxes a little in advance--by loans from individuals--by the other banks, over which the government would have equal command; nay greater, as it may grant or refuse to these the privilege, made a free and irrevocable gift to the proposed bank, of using their notes in the federal revenue.

The Founders' Constitution

Volume 3, Article 1, Section 8, Clause 18, Document 9

http://press-pubs.uchicago.edu/founders/documents/a1_8_18s9.html

The University of Chicago Press

The Papers of James Madison. Edited by William T. Hutchinson et al. Chicago and London: University of Chicago Press, 1962--77 (vols. 1--10); Charlottesville: University Press of Virginia, 1977--(vols. 11--).

Source: http://press-pubs.uchicago.edu/founders/documents/a1_8_18s9.html

Thomas Jefferson, Opinion on the Constitutionality of the Bill for Establishing a National Bank

15 Feb. 1791 *Papers* 19:275--80

The bill for establishing a National Bank undertakes, among other things

1. to form the subscribers into a Corporation.
2. to enable them, in their corporate capacities to receive grants of land; and so far is against the laws of *Mortmain*.¹
3. to make *alien* subscribers capable of holding lands, and so far is against the laws of *Alienage*.
4. to transmit these lands, on the death of a proprietor, to a certain line of successors: and so far changes the course of *Descents*.
5. to put the lands out of the reach of forfeiture or escheat and so far is against the laws of *Forfeiture and Escheat*.
6. to transmit personal chattels to successors in a certain line: and so far is against the laws of *Distribution*.
7. to give them the sole and exclusive right of banking under the national authority: and so far is against the laws of *Monopoly*.
8. to communicate to them a power to make laws paramount to the laws of the states: for so they must be construed, to protect the institution from the controul of the state legislatures; and so, probably they will be construed.

I consider the foundation of the Constitution as laid on this ground that "all powers not delegated to the U.S. by the Constitution, not prohibited by it to the states, are reserved to the states or to the people" [XIIth. Amendmt.]. To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless feild of power, no longer susceptible of any definition.

The incorporation of a bank, and other powers assumed by this bill have not, in my opinion, been delegated to the U.S. by the Constitution.

I. They are not among the powers specially enumerated, for these are

1. A power to *lay taxes* for the purpose of paying the debts of the U.S. But no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, it's origination in the Senate would condemn it by the constitution.
2. "to borrow money." But this bill neither borrows money, nor ensures the borrowing it. The proprietors of the bank will be just as free as any other money holders, to lend or not to lend their money to the public. The operation proposed in the bill, first to lend them two millions, and then borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by what name you please.
3. "to regulate commerce with foreign nations, and among the states, and with the Indian tribes." To erect a bank, and to regulate commerce, are very different acts. He who erects a bank creates a subject of commerce in it's bills: so does he who makes a bushel of wheat, or digs a dollar out of the mines. Yet neither of these persons regulates commerce thereby. To erect a thing which may be bought and sold, is not to prescribe regulations for buying and selling. Besides; if this was an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every state, as to it's external. For the power given to Congress by the Constitution, does not extend to the internal regulation of the commerce of a state (that is to say of the commerce between citizen and citizen) which remains exclusively with it's own legislature; but to it's external commerce only, that is to say, it's commerce with another state, or with foreign nations or with the Indian tribes. Accordingly the bill does not propose the measure as a "regulation of trade," but as "productive of considerable advantage to trade."

Still less are these powers covered by any other of the special enumerations.

II. Nor are they within either of the general phrases, which are the two following.

1. "To lay taxes to provide for the general welfare of the U.S." that is to say "to lay taxes *for the purpose* of providing for the general welfare." For the laying of taxes is the *power* and the general welfare the *purpose* for which the power is to be exercised.

They are not to lay taxes *ad libitum* for any purpose they please; but only to pay the debts or provide for the welfare of the Union. In like manner they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless. It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the U.S. and as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they pleased. It is an established rule of construction, where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which would render all the others useless. Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power now proposed as a means, was rejected as an end, by the Convention which formed the constitution. A proposition was made to them to authorize Congress to open canals, and an amendatory one to empower them to incorporate. But the whole was rejected, and one of the reasons of rejection urged in debate was that then they would have a power to erect a bank, which would render the great cities, where there were prejudices and jealousies on that subject adverse to the reception of the constitution.

2. The second general phrase is "to make all laws necessary and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank therefore is not necessary, and consequently not authorised by this phrase.

It has been much urged that a bank will give great facility, or convenience in the collection of taxes. Suppose this were true: yet the constitution allows only the means which are "necessary" not those which are merely "convenient" for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non-enumerated power, it will go to every one, for [there] is no one which ingenuity may not torture into a convenience, in some way or other, to some one of so long a list of enumerated powers. It would swallow up all the delegated powers, and reduce the whole to one phrase as before observed. Therefore it was that the constitution restrained them to the necessary means, that is to say, to those means without which the grant of the power would be nugatory.

But let us examine this convenience, and see what it is. The report on this subject, page 3. states the only general convenience to be the preventing the transportation and re-transportation of money between the states and the treasury. (For I pass over the increase of circulating medium ascribed to it as a merit, and which, according to my ideas of paper money is clearly a demerit.) Every state will have to pay a sum of tax-money into the treasury: and the treasury will have to pay, in every state, a part of the interest on the public debt, and salaries to the officers of government resident in that state. In most of the states there will still be a surplus of tax-money to come up to the seat of government for the officers residing there. The payments of interest and salary in each state may be made by treasury-orders on the state collector. This will take up the greater part of the money he has collected in his state, and consequently prevent the great mass of it from being drawn out of the state. If there be a balance of commerce in favour of that state against the one in which the government resides, the surplus of taxes will be remitted by the bills of exchange drawn for that commercial balance. And so it must be if there was a bank. But if there be no balance of commerce, either direct or circuitous, all the banks in the world could not bring up the surplus of taxes but in the form of money. Treasury orders then and bills of exchange may prevent the displacement of the main mass of the money collected, without the aid of any bank: and where these fail, it cannot be prevented even with that aid.

Perhaps indeed bank bills may be a more convenient vehicle than treasury orders. But a little difference in the degree of convenience, cannot constitute the necessity which the constitution makes the ground for assuming any non-enumerated power.

Besides; the existing banks will without a doubt, enter into arrangements for lending their agency: and the more favourable, as there will be a competition among them for it: whereas the bill delivers us up bound to the national bank, who are free to refuse all arrangement, but on their own terms, and the public not free, on such refusal, to employ any other bank. That of Philadelphia, I believe, now does this business, by their post-notes, which by an arrangement with the treasury, are paid by any state collector to whom they are presented. This expedient alone suffices to prevent the existence of that necessity which may justify the assumption of a non-enumerated power as a means for carrying into effect an enumerated one. The thing may be done, and has been done, and well done without this assumption; therefore it does not stand on that degree of necessity which can honestly justify it.

It may be said that a bank, whose bills would have a currency all over the states, would be more convenient than one whose currency is limited to a single state. So it would be still more convenient that there should be a bank whose bills should have a currency all over the world. But it does not follow from this superior convenience that there exists anywhere a power to establish such a bank; or that the world may not go on very well without it.

Can it be thought that the Constitution intended that for a shade or two of *convenience*, more or less, Congress should be authorised to break down the most antient and fundamental laws of the several states, such as those against Mortmain, the laws of alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, the laws of monopoly? Nothing but a necessity invincible by any other means, can justify such a prostration of laws which constitute the pillars of our whole system of jurisprudence. Will Congress be too strait-laced to carry the constitution into honest effect, unless they may pass over the foundation-laws of the state-governments for the slightest convenience to theirs?

The Negative of the President is the shield provided by the constitution to protect against the invasions of the legislature 1. the rights of the Executive 2. of the Judiciary 3. of the states and state legislatures. The present is the case of a right remaining exclusively with the states and is consequently one of those intended by the constitution to be placed under his protection.

It must be added however, that unless the President's mind on a view of every thing which is urged for and against this bill, is tolerably clear that it is unauthorised by the constitution, if the pro and the con hang so even as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favour of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the constitution has placed a check in the negative of the President.

1. Though the constitution controuls the laws of Mortmain so far as to permit Congress itself to hold lands for certain purposes, yet not so far as to permit them to communicate a similar right to other corporate bodies.

The Founders' Constitution

Volume 3, Article 1, Section 8, Clause 18, Document 10

http://press-pubs.uchicago.edu/founders/documents/a1_8_18s10.html

The University of Chicago Press

The Papers of Thomas Jefferson. Edited by Julian P. Boyd et al. Princeton: Princeton University Press, 1950--.

Source: http://press-pubs.uchicago.edu/founders/documents/a1_8_18s10.html

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I consider the foundation of the Constitution as laid on this ground that "all powers not delegated to the U.S. by the Constitution, nor prohibited by it to the states, are reserved to the states or to the people" [XII. Amend.] to take a single step beyond the boundaries thus specially drawn around the power of Congress is to take possession of a boundless field of power, no longer susceptible of any definition.

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Alexander Hamilton, Opinion on the Constitutionality of the Bank

23 Feb. 1791 *Papers 8:97--106*

The Secretary of the Treasury having perused with attention the papers containing the opinions of the Secretary of State and Attorney General concerning the constitutionality of the bill for establishing a National Bank proceeds according to the order of the President to submit the reasons which have induced him to entertain a different opinion.

It will naturally have been anticipated that, in performing this task he would feel uncommon solicitude. Personal considerations alone arising from the reflection that the measure originated with him would be sufficient to produce it. The sense which he has manifested of the great importance of such an institution to the successful administration of the department under his particular care, and an expectation of serious ill consequences to result from a failure of the measure, do not permit him to be without anxiety on public accounts. But the chief solicitude arises from a firm persuasion, that principles of construction like those espoused by the Secretary of State and the Attorney General would be fatal to the just and indispensable authority of the United States.

In entering upon the argument it ought to be premised, that the objections of the Secretary of State and Attorney General are founded on a general denial of the authority of the United States to erect corporations. The latter indeed expressly admits, that if there be anything in the bill which is not warranted by the constitution, it is the clause of incorporation.

Now it appears to the Secretary of the Treasury, that this *general principle is inherent* in the very *definition* of *Government* and *essential* to every step of the progress to be made by that of the United States, namely--that every power vested in a Government is in its nature *sovereign*, and includes by *force* of the *term*, a right to employ all the *means* requisite, and fairly *applicable* to the attainment of the *ends* of such power; and which are not precluded by restrictions and exceptions specified in the constitution, or not immoral, or not contrary to the essential ends of political society.

This principle in its application to Government in general would be admitted as an axiom. And it will be incumbent upon those, who may incline to deny it, to *prove* a distinction and to shew that a rule which in the general system of things is essential to the preservation of the social order, is inapplicable to the United States.

The circumstances that the powers of sovereignty are in this country divided between the National and State Governments, does not afford the distinction required. It does not follow from this, that each of the *portions* of powers delegated to the one or to the other is not sovereign *with regard to its proper objects*. It will only *follow* from it, that each has sovereign power as to *certain things*, and not as to *other things*. To deny that the Government of the United States has sovereign power as to its declared purposes and trusts, because its power does not extend to all cases, would be equally to deny, that the State Governments have sovereign power in any case; because their power does not extend to every case. The tenth section of the first article of the constitution exhibits a long list of very important things which they may not do. And thus the United States would furnish the singular spectacle of a *political society* without *sovereignty*, or of a people *governed* without *government*.

If it would be necessary to bring proof to a proposition so clear as that which affirms that the powers of the federal Government, *as to its objects*, are sovereign, there is a clause of its constitution which would be decisive. It is that which declares, that the constitution and the laws of the United States made in pursuance of it, and all treaties made or which shall be made under their authority shall be the supreme law of the land. The power which can create the *Supreme law* of the land, in any case, is doubtless sovereign *as to such case*.

This general and indisputable principle puts at once an end to the *abstract* question. Whether the United States have power to *erect a corporation*? that is to say, to give a *legal* or *artificial capacity* to one or more persons, distinct from the natural. For it is unquestionably incident to *sovereign power* to erect corporations, and consequently to *that* of the United States, in *relation to the objects* intrusted to the management of the government. The difference is this--where the authority of the government is general, it can create corporations in *all cases*; where it is confined to certain branches of legislation, it can create corporations only in those cases.

Here then as far as concerns the reasonings of the Secretary of State and the Attorney General, the affirmative of the constitutionality of the bill might be permitted to rest. It will occur to the President that the principle here advanced has been untouched by either of them.

For a more complete elucidation of the point nevertheless, the arguments which they had used against the power of the government to erect corporations, however foreign they are to the great and fundamental rule which has been stated, shall be

particularly examined. And after shewing that they do not tend to impair its force, it shall also be shewn that the power of incorporation incident to the government in certain cases, does fairly extend to the particular case which is the object of the bill.

The first of these arguments is, that the foundation of the constitution is laid on this ground "that all powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States or to the people," whence it is meant to be inferred, that congress can in no case exercise any power not included in those enumerated in the constitution. And it is affirmed that the power of erecting a corporation is not included in any of the enumerated powers.

The main proposition here laid down, in its true signification is not to be questioned. It is nothing more than a consequence of this republican maxim, that all government is a delegation of power. But how much is delegated in each case, is a question of fact to be made out by fair reasoning and construction, upon the particular provisions of the constitution--taking as guides the general principles and general ends of government.

It is not denied, that there are *implied*, as well as *express powers*, and that the *former* are as effectually delegated as the latter. And for the sake of accuracy it shall be mentioned, that there is another class of powers, which may be properly denominated *resulting* powers. It will not be doubted that if the United States should make a conquest of any of the territories of its neighbours, they would possess sovereign jurisdiction over the conquered territory. This would rather be a result from the whole mass of the powers of the government and from the nature of political society, than a consequence of either of the powers specially enumerated.

But be this as it may, it furnishes a striking illustration of the general doctrine contended for. It shows an extensive case, in which a power of erecting corporations is either implied in, or would result from some or all of the powers, vested in the National Government. The jurisdiction acquired over such conquered territory would certainly be competent to every species of legislation.

To return--It is conceded, that implied powers are to be considered as delegated equally with express ones.

Then it follows, that as a power of erecting a corporation may as well be *implied* as any other thing; it may as well be employed as an *instrument* or *means* of carrying into execution any of the specified powers, as any other instrument or mean whatever. The only question must be, in this as in every other case, whether the mean to be employed, or in this instance the corporation to be erected, has a natural relation to any of the acknowledged objects or lawful ends of the government. Thus a corporation may not be erected by congress, for superintending the police of the city of Philadelphia because they are not authorized to *regulate* the *police* of that city; but one may be erected in relation to the collection of taxes, or to the trade with foreign countries, or to the trade between the States, or with the Indian Tribes, because it is the province of the federal government to *regulate those objects* and because it is incident to a general *sovereign* or *legislative power to regulate* a thing, to employ all the means which relate to its regulation to the *best* and *greatest advantage*.

A strange fallacy seems to have crept into the manner of thinking and reasoning upon this subject. Imagination appears to have been unusually busy concerning it. An incorporation seems to have been regarded as some great, independent, substantive thing--as a political end of peculiar magnitude and moment; whereas it is truly to be considered as a *quality, capacity, or means* to an end. Thus a mercantile company is formed with a certain capital for the purpose of carrying on a particular branch of business. Here the business to be prosecuted is the *end*; the association in order to form the requisite capital is the primary mean. Suppose than an incorporation were added to this; it would only be to add a new *quality* to that association; to give it an artificial capacity by which it would be enabled to prosecute the business with more safety and convenience.

That the importance of the power of incorporation has been exaggerated, leading to erroneous conclusions, will further appear from tracing it to its origin. The roman law is the source of it, according to which a *voluntary* association of individuals at *any time* or *for any purpose* was capable of producing it. In England, whence our notions of it are immediately borrowed, it forms a part of the executive authority, and the exercise of it has been often *delegated* by that authority. Whence therefore the ground of the supposition, that it lies beyond the reach of all those very important portions of sovereign power, legislative as well as executive, which belong to the government of the United States?

To this mode of reasoning respecting the right of employing all the means requisite to the execution of the specified powers of the Government, it is objected that none but *necessary* and proper means are to be employed, and the Secretary of State maintains, that no means are to be considered as *necessary*, but those without which the grant of the power would be *nugatory*. Nay so far does he go in his restrictive interpretation of the word, as even to make the case of *necessity* which shall warrant the constitutional exercise of the power to depend on *casual* and *temporary* circumstances; an idea which alone refutes the

construction. The *expediency* of exercising a particular power, at a particular time, must indeed depend on *circumstances*; but the constitutional right of exercising it must be uniform and invariable--the same to day as to morrow.

All the arguments therefore against the constitutionality of the bill derived from the accidental existence of certain State banks--institutions which *happen* to exist today, and, for ought that concerns the government of the United States, may disappear tomorrow, must not only be rejected as falacious, but must be viewed as demonstrative, that there is a *radical* source of error in the reasoning.

It is essential to the being of the National government, that so erroneous a conception of the meaning of the word *necessary*, should be exploded.

It is certain, that neither the grammatical nor popular sense of the term requires that construction. According to both, *necessary* often means no more than *needful*, *requisite*, *incidental*, *useful*, or *conductive to*. It is a common mode of expression to say, that it is *necessary* for a government or a person to do this or that thing, when nothing more is intended or understood, than that the interests of the government or person require, or will be promoted, by the doing of this or that thing. The imagination can be at no loss for exemplifications of the use of the word in this sense.

And it is the true one in which it is to be understood as used in the constitution. The whole turn of the clause containing it indicates, that it was the intent of the convention, by that clause to give a liberal latitude to the exercise of the specified powers. The expressions have peculiar comprehensiveness. They are, "to make *all laws*, necessary and proper for *carrying into execution* the foregoing powers and *all other powers* vested by the constitution in the *government* of the United States, or in any *department* or *officer* thereof." To understand the word as the Secretary of State does, would be to depart from its obvious and popular sense, and to give it a *restrictive* operation; an idea never before entertained. It would be to give it the same force as if the word *absolutely* or *indispensably* had been prefixed to it.

Such a construction would beget endless uncertainty and embarrassment. The cases must be palpable and extreme in which it could be pronounced with certainty that a measure was absolutely necessary, or one without which the exercise of a given power would be nugatory. There are few measures of any government, which would stand so severe a test. To insist upon it, would be to make the criterion of the exercise of any implied power *a case of extreme necessity*; which is rather a rule to justify the overleaping of the bounds of constitutional authority, than to govern the ordinary exercise of it.

It may be truly said of every government, as well as of that of the United States, that it has only a right, to pass such laws as are necessary and proper to accomplish the objects intrusted to it. For no government has a right to do *merely what it pleases*. Hence by a process of reasoning similar to that of the Secretary of State, it might be proved, that neither of the State governments has the right to incorporate a bank. It might be shown, that all the public business of the State, could be performed without a bank, and inferring thence that it was unnecessary it might be argued that it could not be done, because it is against the rule which has been just mentioned. A like mode of reasoning would prove, that there was no power to incorporate the Inhabitants of a town, with a view to a more perfect police. For it is certain, that an incorporation may be dispensed with, though it is better to have one. It is to be remembered that there is no *express* power in any State constitution to erect corporations.

The *degree* in which a measure is necessary, can never be a test of the *legal* right to adopt it. That must be a matter of opinion; and can only be a test of expediency. The *relation* between the *measure* and the *end*, between the *nature* of the *mean* employed towards the execution of a power and the object of that power, must be the criterion of constitutionality not the more or less of *necessity* or *utility*.

The practice of the government is against the rule of construction advocated by the Secretary of State. Of this the act concerning light houses, beacons, buoys and public piers, is a decisive example. This doubtless must be referred to the power of regulating trade, and is fairly relative to it. But it cannot be affirmed, that the exercise of that power, in this instance, was strictly necessary, or that the power itself would be *nugatory* without that of regulating establishments of this nature.

This restrictive interpretation of the word *necessary* is also contrary to this sound maxim of construction; namely, that the powers contained in a constitution of government, especially those which concern the general administration of the affairs of a country, its finances, trade, defence etc. ought to be construed liberally, in advancement of the public good. This rule does not depend on the particular form of a government or on the particular demarkation of the boundaries of its powers, but on the nature and objects of government itself. The means by which national exigencies are to be provided for, national inconveniences obviated, national prosperity promoted, are of such infinite variety, extent and complexity that there must, of necessity be great latitude of discretion in the selection and application of those means. Hence consequently, the necessity and propriety of exercising the authorities intrusted to a government on principles of liberal construction.

The Attorney General admits the *rule*, but takes a distinction between a State, and the federal constitution. The latter, he thinks, ought to be construed with great strictness, because there is more danger of error in defining partial than general powers.

But the reason of the *rule* forbids such a distinction. This reason is--the variety and extent of public exigencies, a far greater proportion of which and of a far more critical kind are objects of national than of State administration. The greater danger of error, as far as it is supposable, may be a prudential reason for caution in practice, but it cannot be a rule of restrictive interpretation.

In regard to the clause of the constitution immediately under consideration, it is admitted by the Attorney General, that no *restrictive* effect can be ascribed to it. He defines the word necessary thus: "To be necessary is to be *incidental*, and may be denominated the natural means of executing a power."

But while on the one hand, the construction of the Secretary of State is deemed inadmissible, it will not be contended on the other, that the clause in question gives any *new* or *independent* power. But it gives an explicit sanction to the doctrine of *implied* powers, and is equivalent to an admission of the proposition, that the government, *as to its specified powers and objects*, has plenary and sovereign authority, in some cases paramount to that of the States in others co-ordinate with it. For such is the plain import of the declaration, that it may pass all *laws* necessary and proper to carry into execution those powers.

It is no valid objection to the doctrine to say, that it is calculated to extend the powers of the general government throughout the entire sphere of State legislation. The same thing has been said, and may be said with regard to every exercise of power by *implication* or *construction*. The moment the literal meaning is departed from there is a chance of error and abuse. And yet an adherence to the letter of its powers would at once arrest the motions of the government. It is not only agreed, on all hands, that the exercise of constructive powers is indispensable, but every act which has been passed is more or less an exemplification of it. One has been already mentioned, that relating to light houses etc. That which declares the power of the President to remove officers at pleasure, acknowledges the same truth in another, and a signal instance.

The truth is, that difficulties on this point are inherent in the nature of the federal constitution. They result inevitably from a division of the legislative power. The consequence of this division is, that there will be cases clearly within the power of the National Government; others clearly without its powers; and a third class, which will leave room for controversy and difference of opinion, and concerning which a reasonable latitude of judgment must be allowed.

But the doctrine which is contended for is not chargeable with the consequence imputed to it. It does not affirm that the National government is sovereign in all respects, but that it is sovereign to a certain extent: that is, to the *extent* of the objects of its specified powers.

It leaves therefore a criterion of what is constitutional, and of what is not so. This criterion is the *end*, to which the measure relates as a *mean*. If the end be clearly comprehended within any of the specified powers, and if the measure have an obvious relation to that end, and is not forbidden by any particular provision of the constitution--it may safely be deemed to come within the compass of the national authority. There is also this further criterion which may materially assist the decision: Does the proposed measure abridge a pre-existing right of any State, or of any individual? If it does not, there is a strong presumption in favour of its constitutionality; and slighter relations to any declared object of the constitution may be permitted to turn the scale.

The Founders' Constitution

Volume 3, Article 1, Section 8, Clause 18, Document 11

http://press-pubs.uchicago.edu/founders/documents/a1_8_18s11.html

The University of Chicago Press

The Papers of Alexander Hamilton. Edited by Harold C. Syrett et al. 26 vols. New York and London: Columbia University Press, 1961--79. *See also*: Federalist

Source: http://press-pubs.uchicago.edu/founders/documents/a1_8_18s11.html

The First Bank of the United States

By David Cowen

Birth of the Bank

In February 1791, the First Bank of the United States (1791-1811) received a unique national charter for twenty years. Alexander Hamilton's brainchild, a semi-public national bank, was a crucial component in the building of the early U.S. economy. The Bank prospered for twenty years and performed traditional banking functions in exemplary fashion. With a main office in Philadelphia and eight branches nationwide to serve its customers, the Bank's influence stretched along the entire Atlantic seaboard from Boston to Charleston and Savannah and westward along the Gulf Coast to New Orleans.

Hamilton's Broad Economic Plan

When the Treasury Department was created by an Act of Congress in September 1789, President George Washington rewarded Hamilton with the post of Secretary. Hamilton quickly became the nation's leading economic figure. When Congress asked Hamilton to submit an economic plan for the country, he was well prepared. The Secretary delivered several monumental state papers that forged the financial system for the nation: *The Report on Public Credit* (January 9, 1790), *The Report on the Bank* (December 13, 1790), *The Establishment of a Mint* (January, 1791), and *The Report on Manufactures* (December 5, 1791). Hamilton's reports outlined the strategies that were part of a comprehensive Federalist economic and financial program. They included a sinking fund to extinguish the national debt and an excise tax to be collected on all distilled liquors.

A key component of Hamilton's economic plan for the country was the national Bank, an institution that would safeguard all pecuniary transactions. The Bank would not only stimulate the economy but also enhance the shaky credit of the government. The English financial system, particularly the Bank of England, provided an important model for Hamilton.

The Bank's Funding and Privileges

The Report on the Bank explained that the national Bank would be chartered for twenty years, during which time the Congress would agree not to establish another national bank. The seed capital would be \$10 million: \$8 million from private sources, and \$2 million from the government. The Bank would have the right to issue notes or currency up to \$10 million. The government would also pledge that the notes of the Bank would be unique in that they were valid for payments to the United States. In short, the notes would be suitable for payment of taxes, a feature that would provide the Bank with a strong advantage over its competitors.

The national Bank would confer many benefits on the government including a ready source of loans, a principal depository for federal monies that were transferable from city to city without charge, and a clearing agent for payments on the national debt. The government, as the largest stockholder, would share in the profits, but have no direct participation in the management.

Debate over Establishment of the Bank

The Bank bill was introduced into Congress on December 13, 1790, passed the Senate on January 20, 1791, the House on February 8, 1791, and therefore was forwarded to President Washington for his signature. It was unclear whether Washington would sign the bill into law. Powerful forces led by James Madison, Thomas Jefferson and the Attorney General, Edmund Randolph, argued to Washington that the Constitution had not granted the government the power to incorporate a Bank and therefore he should not sign the bill.

Washington Accepts Hamilton's View on Implied Powers

Washington showed Hamilton the opposition's argument and asked him to prepare a document explaining why he should sign the bill. The pressure was therefore on Hamilton to produce a flawless retort. His reply to Washington has been christened as the benchmark of a broad interpretation of the Constitution. Hamilton turned the tables on his opposition. If Thomas Jefferson, James Madison and Edmund Randolph argued that the power to incorporate was not available unless explicitly prescribed by the Constitution, then Alexander Hamilton retorted that a power was not unavailable unless so stated in the Constitution. Washington accepted Hamilton's logic and signed the bill on February 25, 1791 to create the national Bank.

Most important, however, was not the political infighting, but rather that Hamilton's view holding that implied governmental powers were a viable part of the Constitution had carried the day. Hamilton had accomplished his aim: his detractors defeated; his economic approach adopted. In the ensuing years the Bank of the United States occupied center stage of the American financial system.

Life of the Bank

Initial Stock Offering

On July 4, 1791, in the largest initial stock offering the country had ever witnessed, investors displayed confidence in the new funding system by scooping up \$8 million in Bank of United States stock with unprecedented alacrity. Many notable members of the Congress were purchasers. Prices of receipts for the right to buy stock (i.e. not the stock itself), known as scripts, were driven from an initial offering price of \$25 to the unsustainable height of over \$300, and then tumbled to \$150 within days, causing alarm in the markets. Secretary Hamilton calmed the storm much as a modern central banker would have by using public money to directly purchase government securities. However, the script bubble led many to blame the Bank for such rabid speculations.

Bank Branches

In the fall of 1791 the new stockholders met in Philadelphia to choose board members and decide on rules and regulations. While the Bank would be headquartered in Philadelphia, the stockholders clamored for and received branches, with four opening in Baltimore, Boston, Charleston, and New York in 1792, and eventually four more in Norfolk (1800), Washington (1802), Savannah (1802) and New Orleans (1805). The branches were of great concern to the existing state banks, which viewed the national Bank as a competitive threat.

The Bank's First President and Cashiers

Thomas Willing accepted the title of president of the Bank and remained in that position until 1807. Willing possessed strong credentials as he had been president of the Bank of North America, Mayor of Philadelphia, the Secretary to the Congress of delegates at Albany, and a Judge of the Supreme court of Pennsylvania. As the day-to-day manager, the role of bank cashier was also important. At the head office in Philadelphia, John Kean was appointed the cashier; however, the most noteworthy was George Simpson, who held the post from 1795-1811.

The Bank's Roles in the Economy

On December 12, 1791, the Bank opened for business in Philadelphia. The customers were merchants, politicians, manufacturers, landowners, and most importantly, the government of the United States. The Bank's notes circulated countrywide and therefore infused a safe medium of paper money into the economy for business transactions. The sheer volume of deposits, loans, transfers and payments conducted by the Bank throughout the country made it far and away the single largest enterprise in the fledgling nation. Profits, however, were moderate during the operation of the Bank because its directors opted for stability over risk taking.

The Bank and the "Panic of 1792"

The Bank had an enormous impact on the economy within two months of opening its doors for business by flooding the market with its discounts (loans) and banknotes and then sharply reversing course and calling in many of the loans. Although the added liquidity initially helped push a rising securities market higher, the subsequent drain caused the very first U.S. securities market crash by forcing speculators to sell their stocks. The largest speculator caught in the financial crisis was William Duer. When he went insolvent in March 1792, the markets were temporarily paralyzed. This so-called "Panic of 1792" was short lived as again Secretary Hamilton (as in the previous year during the script bubble) injected funds by buying securities directly and on behalf of the sinking fund. Yet incidents like the Panic of 1792 and the script bubble would be remembered for many years by opponents of the Bank who were still in steadfast opposition to the Hamilton inspired institution.

The Bank's Business with the National Government

The rest of Bank years were never as tumultuous as the events surrounding the Panic of 1792. Rather during its twenty-year lifespan the Bank performed many mundane pecuniary functions for its customers. The largest customer, the government, had many notable interactions with the Bank. One of the highlights of the relationship was the Bank's efficient managing of the government's fiscal affairs with respect to the Louisiana Purchase in 1803. In its earlier days, the Bank had lent heavily to its largest customer. By the end of 1795 the Bank had lent the government over \$6 million, or 60% of its capital. At this point Willing and the other directors became alarmed and demanded the Government repay part of its loan. Since Government credit was still weak, the Treasury resorted to selling shares of its Bank stock. The sales began in 1796 and ended in 1802. With the proceeds from the sales of stock, the government repaid the Bank.

Central Banking Functions of the Bank

The Bank performed certain functions that today are associated with central banking. First, the Bank attempted to regulate state banks by curtailing those that had overissued their bank notes. Second, the Bank, in coordination with the Treasury department, discussed economic conditions and attempted to promote the safety of the entire credit system. Third, while the Philadelphia board gave each branch autonomy respecting lending to individuals, the Bank tried to coordinate aggregate policy changes, whether a loosening or tightening of lending credit, across the entire network of branches.

Death of the Bank

The anti-Bank forces had remained steadfast in their opposition to the Bank since its inception in 1791. By the time of the renewal debate in Congress, the Federalists were no longer in control. The Democrats now held the majority and were ready to act against the Federalist conceived institution. The opponents of the Bank included Henry Clay, William Branch Giles and Vice-President George Clinton. The Federalists supported renewal and were joined by two notable Democrats who crossed party lines, Treasury Secretary Albert Gallatin, who believed in the usefulness of the institution, and then President Madison, who had switched camps with respect to the Bank issue because he believed the matter had been settled by precedent.

Complaints about the Bank

The opponents charged that because three-fourths of the ownership of the stock was held by foreigners, that the Bank was under their direct influence. The charge was false, as foreigners were prohibited from electing directors. The opposition also charged that the Bank was concealing profits, operating in a mysterious fashion, unconstitutional, and simply a tool for loaning money to the Government.

Rechartering Suffers a Narrow Defeat in Congress

Although the charter did not expire until March 4, 1811, the renewal process commenced in the House on March 28, 1808 and in the Senate on April 20, 1808. The matter developed slowly and was referred to Secretary Gallatin for an opinion. On March 3, 1809 Gallatin communicated his beliefs to the House that the Bank charter should be renewed. The matter returned to the House on January 29, 1810 for Committee debate. On February 19th, the committee recommended in favor of renewing the charter and sent the bill to the floor of the House. Floor debate opened on April 13th, and the bill was stopped dead in its tracks. Stockholders resubmitted the bill on December 10th, and despite an intense three-month debate, the bill was killed. The vote in each section of the Congress was incredibly close. The bill was defeated in the House by a 65 to 64 margin on January 24, 1811, and in the Senate was deadlocked at 17 on February 20th before Vice-President Clinton, an enemy of both Madison and Gallatin, broke the tie with a negative vote. The Bank of the United States closed its doors on March 3, 1811.

The Bank and the Debate over Central Government Power

The reason the Bank lost its charter had precious little to do with banking. When charter renewal debate transpired in 1811 banking on the whole was flourishing. The Bank was born, lived, and eventually died a victim of politics. The Bank has been remembered not for what occurred during its operation -- stimulating business, infusing safe paper money into the economy, supporting the credit of the country and national government, and with the Treasury department regulating the financial arena -- but rather for what occurred during the stormy debates at its birth and death. The death of the Bank was another chapter in an ongoing debate between the early leaders of the country who were split between those who preferred a weak central government on the one hand and those who desired a strong central government on the other.

The chartering of a national economic institution, a Bank of the United States, marks the take-off of the Federalist financial revolution that began several years earlier with the signing of the Constitution. The political die of the United States was cast with that document, and by 1792 the economic base of Federalism was in place, first with the Federal funding of national and state war debts, and second, with a sound national Bank in place to give coherence to the developing U.S. financial system.

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A promissory note issued by the Second Bank of the United States, December 15, 1840, for the amount of \$1,000.

Timeline of the Bank of the United States:

- January 20, 1791: The U.S. Senate votes in favor of establishing the First Bank of the United States.
- February 8, 1791: The U.S. House of Representatives passes the First Bank of the United States bill (39 Yeas, 20 Nays, 6 Absent).
- February 15, 1791: Thomas Jefferson issues his *Opinion on the Constitutionality of the Bill for Establishing a National Bank*
- February 23, 1791: Alexander Hamilton issues his *Opinion on the Constitutionality of the Bank*
- February 25, 1791: President George Washington signs the Bank bill into law in Philadelphia.
- 1801-1805: First Barbary War
- January 24, 1811: The U.S. House of Representatives postpones extension of the Bank of the United States (65 Yeas, 64 Nays).
- February 20, 1811: The U.S. Senate is split on the proposed extension of the Bank of the United States (17 Yeas, 17 Nays). Vice President George Clinton casts the deciding vote and votes against the extension (a "Yea" vote).
- March 3, 1811: (First) Bank of the United States becomes a private bank and the charter for the Bank of the United States expires
- 1812-1815: War of 1812
- March 14, 1816: The U.S. House of Representatives passes the Second Bank of the United States bill (80 Yeas, 71 Nays, 13 Absent).
- April 3, 1816: The U.S. Senate passes the Second Bank of the United States bill (22 Yeas, 12 Nays, 1 Absent).
- April 10, 1816: President James Madison signs the Second Bank of the United States into law
- 1819: Panic of 1819
- June 11, 1832: The U.S. Senate passes the bill extending the Second Bank of the United States (28 Yeas, 20 Nays).
- July 3, 1832: The U.S. House of Representatives passes a bill extending the Second Bank of the U.S. (106 Yeas, 84 Nays, 15 Absent).
- July 10, 1832: President Andrew Jackson vetoes the Second Bank of the United States bill
- December 31, 1836: (Second) Bank of the United States becomes a private bank (United States Bank of Pennsylvania)
- 1835-1843: Panic of 1837 (1837-1843); Second Seminole War (1835-1842); Opium War (1839-1842)

JANUARY, 1811.

Bank of the United States.

H. OF R.

proves without doubt that this question was not decided by party principles. But why, I ask, are such unceasing efforts made to prove this a party question? Is the gentleman from Virginia, (Mr. EPPES,) whose argument on this subject was directed principally to this point, fearful of a diminution of his customary weight in the scale of discussion, or of the insufficiency of his reasoning and argumentative powers to draw his friends with him on this question? And is he therefore compelled to resort to this argument, as a means of whipping into the track those who are disposed to obey the honest convictions of their own judgments? If such be his object, I can only say for myself, that I am drawn along with that gentleman, by the cords of reason, policy, and common sense alone. And, where these are too weak, I cannot be seduced from my own opinion, by the fascinating eloquence of any man, or any system of proscription or denunciation, however formidable it may be either in plan or operation.

It has been fashionable for gentleman on this floor, when speaking of party, to declare they were not party men. But, sir, I acknowledge I am a party man. And I have no hesitation in declaring that I belong to the people's party. It is for the promotion of the happiness and prosperity of the people of Kentucky in particular, and of the whole United States in general, that my services are rendered in this House. And if on this or any other occasion, the true interests of the people of Kentucky have been misunderstood by me, they will, as I know they can, select from among themselves some individual possessing more wisdom to perceive, and an inclination to pursue the means best calculated to promote the interest, happiness, and increasing prosperity of my country. And should they adopt such a measure as salutary or expedient, their decision would receive my most sincere respect and acquiescence.

It is for the protection and promotion of the best interests of my country, and of my constituents, that I have again presented myself before this House, to give a last and perhaps a feeble view of the impolicy and the deleterious consequences of the act which I fear is now about to be done.

Before I sit down, permit me to advise my political friends, who vote with me on this occasion, (for I have no right to administer advice to others,) to suffer the decisive vote now to be taken on this great and much agitated question. We have given this bill all the support constitutionally within our power; let the majority, if against us, now decide, and take on themselves that awful weight of responsibility, which awaits their decision. And if the affections of the people should, on account of the frequent appeals made to their passions and prejudices, recede for a moment, from us, it cannot but be to us a consolatory reflection, that we have discharged, with honesty and fidelity, our duty to our country. And that when reason and reflection may have resumed once more their empire, we will again be surrounded with the confidence and gratitude of the people.

MESSRS. SMILIE and MACON spoke in favor of the indefinite postponement of the bill, and Mr. QUINCY against it.

About five o'clock the question was taken, and carried in the affirmative—yeas 65, nays 64, as follows:

YEAS—Lemuel J. Alston, William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Mesback Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Edwin Gray, James Holland, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Alexander McKim, William McKinley, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Porter, Peter B. Porter, John Rea of Penn., John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Sage, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, John Smilie, George Smith, Samuel Smith, Henry Southard, George M. Troup, Charles Turner, jr., Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

NAYS—Joseph Allen, Willis Alston, jun., Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, junior, William Ely, James Emott, William Findley, Jonathan Fisk, Barent Gardenier, David S. Garland, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Phillip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Jonathan O. Moseley, Thomas Newbold, John Nicholson, Joseph Pearson, Benjamin Pickman, junior, Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Randolph, Thomas Sammons, John A. Scudder, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

And then the House adjourned until to-morrow morning eleven o'clock.

FRIDAY, January 25.

The bill from the Senate, entitled "An act authorizing the discharge of Nathaniel F. Fosdick from his imprisonment," was read twice, and committed to a Committee of the Whole to-morrow.

The bill from the Senate, entitled "An act for the relief of William Mills," was read twice, and committed to the Committee of the Whole last mentioned.

Mr. JOHN PORTER presented a petition of sundry inhabitants of Philadelphia, to the same effect

Roll Call on the Bank of the United States in the U.S. House of Representatives (January 24, 1811)

Yea Votes (65 Yeas: 65 Republicans, 0 Federalists):

Lemuel J. Alston – U.S. Congressman (Republican-South Carolina, 1807-1811)
William Anderson – U.S. Congressman (Republican-Pennsylvania, 1809-1815, 1817-1819)
Ezekiel Bacon (B.A. Yale 1794) – U.S. Congressman (Republican-Massachusetts, 1807-1813)
David Bard (A.B. Princeton 1773) – U.S. Congressman (Republican-Pennsylvania, 1795-1799, 1803-1815)
William T. Barry (B.A. William and Mary 1803) – U.S. Congressman (Democratic Republican-Kentucky; August 8, 1810-March 3, 1811)
Burwell Bassett – U.S. Congressman (Republican-Virginia, 1805-1813, 1815-1819, 1821-1829)
William W. Bibb – U.S. Congressman (Democratic Republican-Georgia, 1807-1813); U.S. Senator (Georgia, 1813-1816)
Adam Boyd – U.S. Congressman (Republican-New Jersey, 1803-1805, 1808-1813)
Robert Brown – U.S. Congressman (Republican-Pennsylvania, 1798-1815)
William Butler – U.S. Congressman (Republican-South Carolina, March 4, 1801-March 3, 1813)
Joseph Calhoun – U.S. Congressman (Republican-South Carolina, 1807-1811)
Langdon Cheves – U.S. Congressman (Republican-South Carolina, December 31, 1810-March 3, 1815)
Matthew Clay – U.S. Congressman (Republican-Virginia, 1797-1813, March 4, 1815-May 27, 1815)
James Cochran – U.S. Congressman (Republican-North Carolina, 1809-1813)
William Crawford (A.B. Princeton 1781?) – U.S. Congressman (Republican-Pennsylvania, 1809-1817)
Richard Cutts (B.A. Harvard 1790) – U.S. Congressman (Republican-Massachusetts, 1801-1813)
John Dawson (B.A. Harvard 1782) – U.S. Congressman (Republican-Virginia, 1797-1814)
Joseph Desha – U.S. Congressman (Republican-Kentucky, 1807-1819); Governor of Kentucky (1824-1828)
John W. Eppes (B.A. Hampden-Sydney College 1786) – U.S. Congressman (Democratic Republican-Virginia, 1803-1811, 1813-1815)
Meshack Franklin – U.S. Congressman (Republican-North Carolina, 1807-1815)
Barzillai Gannett (B.A. Harvard 1785) – U.S. Congressman (Republican-Massachusetts, 1809-1812)
Gideon Gardner – U.S. Congressman (Republican-Massachusetts, 1809-1811)
Thomas Gholson Jr. – U.S. Congressman (Republican-Virginia, November 7, 1808-July 4, 1816)
Peterson Goodwyn – U.S. Congressman (Republican-Virginia, 1803-1818)
Edwin Gray – U.S. Congressman (Republican-Virginia, 1799-1813)
James Holland – U.S. Congressman (Republican-North Carolina, 1795-1797, 1801-1811)
Richard M. Johnson – U.S. Congressman (Democratic Republican-Kentucky, 1807-1819, 1829-1837); Vice President of the U.S. (1837-1841)
Walter Jones (B.A. William and Mary 1760) – U.S. Congressman (Republican-Virginia, 1797-1799, 1803-1811)
Thomas Kenan – U.S. Congressman (Republican-North Carolina, 1805-1811)
William Kennedy (B.A. Univ. of Pennsylvania 1782) – U.S. Congressman (Republican-North Carolina, 1803-1805, 1809-1811, 1813-1815)
John Love – U.S. Congressman (Republican-Virginia, 1807-1811)
Aaron Lyle – U.S. Congressman (Republican-Pennsylvania, 1809-1817)
Nathaniel Macon – U.S. Congressman (Republican-North Carolina, 1791-1815); U.S. Senator (North Carolina, 1815-1828)
Alexander McKim – U.S. Congressman (Republican-Maryland, 1809-1815)
William McKinley – U.S. Congressman (Republican-Virginia, December 21, 1810-March 3, 1811)
Samuel L. Mitchill – U.S. Congressman (Democratic Republican-New York, 1801-1804, 1810-1813)
John Montgomery – U.S. Congressman (Republican-Maryland; March 4, 1807-April 29, 1811); Attorney General of Maryland (1811-1818)
Nicholas R. Moore – U.S. Congressman (Republican-Maryland, 1803-1811, 1813-1815)
Thomas Moore – U.S. Congressman (Republican-South Carolina, 1801-1813, 1815-1817)
Jeremiah Morrow – U.S. Congressman (Democratic Republican-Ohio, 1803-1813, 1840-1843); U.S. Senator (Ohio, 1813-1819)
Gurdon Saltonstall Mumford – U.S. Congressman (Republican-New York, 1805-1811); director of the Bank of New York
Thomas Newton Jr. – U.S. Congressman (Republican-Virginia, 1801-1829, 1829-1830, 1831-1833)
John Porter – U.S. Congressman (Republican-Pennsylvania, December 8, 1806-March 4, 1811)
Peter B. Porter (B.A. Yale 1791) – U.S. Congressman (Republican-New York, 1809-1813, 1815-1816)
John Rea – U.S. Congressman (Republican-Pennsylvania, 1803-1811, 1813-1815)
John Rhea (A.B. Princeton 1780) – U.S. Congressman (Republican-Tennessee, 1803-1815, 1817-1823)
Matthias Richards – U.S. Congressman (Republican-Pennsylvania, 1807-1811)
Samuel Ringgold – U.S. Congressman (Republican-Maryland, 1810-1815, 1817-1821)
John Roane – U.S. Congressman (Republican-Virginia, 1809-1815, 1827-1831, 1835-1837)
Ebenezer Sage (B.A. Yale 1778) – U.S. Congressman (Republican-New York, 1809-1815)
Lemuel Sawyer (B.A. Univ. of North Carolina 1799) – U.S. Congressman (Republican-North Carolina, 1807-1813, 1817-1823, 1825-1829)
Ebenezer Seaver (B.A. Harvard 1784) – U.S. Congressman (Republican-Massachusetts, 1803-1813)
Adam Seybert – U.S. Congressman (Republican-Pennsylvania, 1809-1815, 1817-1819)
John Smilie – U.S. Congressman (Republican-Pennsylvania, 1793-1795, March 4, 1799-December 30, 1812)
George Smith – U.S. Congressman (Republican-Pennsylvania, 1809-1813)
Samuel Smith – U.S. Congressman (Republican-Pennsylvania, November 7, 1805-March 3, 1811)
Henry Southard – U.S. Congressman (Republican-New Jersey, 1801-1811, 1815-1821)
George M. Troup (A.B. Princeton 1797) – U.S. Congressman (Democratic Republican-Georgia, 1807-1815)
Charles Turner Jr. – U.S. Congressman (Republican-Massachusetts, 1809-1813)
Archibald Van Horne – U.S. Congressman (Republican-Maryland, 1807-1811)
Robert Weakley – U.S. Congressman (Republican-Tennessee, 1809-1811)
Robert Whitehill – U.S. Congressman (Republican-Pennsylvania, 1805-1813)
Richard Winn – U.S. Congressman (Republican-South Carolina, 1793-1797, 1803-1813)
Robert Witherspoon – U.S. Congressman (Republican-South Carolina, 1809-1811)
Robert Wright – U.S. Congressman (Democratic Republican-Maryland, 1810-1817, 1821-1823); Governor of Maryland (1806-1809)

Nay Votes (64 Nays: 45 Federalists, 19 Republicans):

Joseph Allen (B.A. Harvard 1774) – U.S. Congressman (Federalist-Massachusetts, October 8, 1810-March 3, 1811)
Willis Alston Jr. – U.S. Congressman (Republican-North Carolina, 1799-1815, 1825-1831)
Abijah Bigelow (A.B. Dartmouth 1795) – U.S. Congressman (Federalist-Massachusetts, 1810-1815)
Daniel Blaisdell – U.S. Congressman (Federalist-New Hampshire, 1809-1811)
James Breckenridge (A.B. William and Mary 1785) – U.S. Congressman (Federalist-Virginia, 1809-1817)
John Campbell – U.S. Congressman (Federalist-Maryland, 1801-1811)
John Curtis Chamberlain (B.A. Harvard 1793) – U.S. Congressman (Federalist-New Hampshire, 1809-1811)
William Chamberlain – U.S. Congressman (Federalist-Vermont, 1803-1805, 1809-1811); Lieutenant Governor of Vermont (1813-1815)
Epaphroditus Champion – U.S. Congressman (Federalist-Connecticut, 1807-1817)
Martin Chittenden (A.B. Dartmouth 1789) – U.S. Congressman (Federalist-Vermont, 1803-1813)
John Davenport (B.A. Yale 1770) – U.S. Congressman (Federalist-Connecticut, 1799-1817)
William Ely (B.A. Yale 1787) – U.S. Congressman (Federalist-Massachusetts, 1805-1815)
James Emott – U.S. Congressman (Federalist-New York, 1809-1813)
William Findley – U.S. Congressman (Republican-Pennsylvania, 1791-1799, 1803-1817)
Jonathan Fisk – U.S. Congressman (Republican-New York, 1809-1811, 1813-1815); U.S. Attorney, Southern District of New York (1815-1819)
Barent Gardenier – U.S. Congressman (Federalist-New York, 1807-1811)
David S. Garland – U.S. Congressman (Republican-Virginia, January 17, 1810-March 3, 1811)
Thomas R. Gold (B.A. Yale 1786) – U.S. Congressman (Federalist-New York, 1809-1813, 1815-1817)
Charles Goldsborough – U.S. Congressman (Federalist-Maryland, 1805-1817); Governor of Maryland (1819)
William Hale – U.S. Congressman (Federalist-New Hampshire, 1809-1811, 1813-1817)
Nathaniel Appleton Haven (B.A. Harvard 1779) – U.S. Congressman (Federalist-New Hampshire, 1809-1811)
William Helms – U.S. Congressman (Republican-New Jersey, 1801-1811)
Daniel Hiester – U.S. Congressman (Republican-Pennsylvania, 1809-1811)
Jonathan H. Hubbard – U.S. Congressman (Federalist-Vermont, 1809-1811)
Ebenezer Huntington (B.A. Yale 1775) – U.S. Congressman (Federalist-Connecticut, 1810-1811, 1817-1819)
Jacob Hufty – U.S. Congressman (Republican-New Jersey, 1809-1813, Federalist-New Jersey, 1813-1814)
Richard Jackson Jr. – U.S. Congressman (Federalist-Rhode Island, 1808-1815); Trustee of Brown University (1809-1838)
Robert Jenkins – U.S. Congressman (Federalist-Pennsylvania, 1807-1811)
Philip B. Key – U.S. Congressman (Federalist-Maryland, 1807-1813); national anthem writer Francis Scott Key's uncle
Herman Knickerbocker – U.S. Congressman (Federalist-New York, 1809-1811)
Joseph Lewis Jr. – U.S. Congressman (Federalist-Virginia, 1803-1817)
Robert Le Roy Livingston – U.S. Congressman (Federalist-New York, March 4, 1809-May 6, 1812)
Vincent Matthews – U.S. Congressman (Federalist-New York, 1809-1811)
Archibald McBryde – U.S. Congressman (Federalist-North Carolina, 1809-1813)
Samuel McKee – U.S. Congressman (Republican-Kentucky, 1809-1817)
Pleasant M. Miller – U.S. Congressman (Republican-Tennessee, 1809-1811)
William Milnor – U.S. Congressman (Federalist-Pennsylvania, 1807-1811, 1815-1817, 1821-1822); Mayor of Philadelphia (1829-1830)
Jonathan Ogden Moseley (B.A. Yale 1780) – U.S. Congressman (Federalist-Connecticut, 1805-1821)
Thomas Newbold – U.S. Congressman (Republican-New Jersey, 1807-1813)
John Nicholson – U.S. Congressman (Republican-New York, 1809-1811)
Joseph Pearson – U.S. Congressman (Federalist-North Carolina, 1809-1815)
Benjamin Pickman Jr. (B.A. Harvard 1784) – U.S. Congressman (Federalist-Massachusetts, 1809-1811)
Timothy Pitkin (B.A. Yale 1785) – U.S. Congressman (Federalist-Connecticut, 1805-1819)
Elisha R. Potter – U.S. Congressman (Federalist-Rhode Island, 1796-1797, 1809-1815)
Josiah Quincy (B.A. Harvard 1790) – U.S. Congressman (Federalist-Massachusetts, 1805-1813)
John Randolph – U.S. Congressman (Republican-Virginia, 1799-1813, 1815-1817, 1819-1825, 1827-1829, 1833)
Thomas Sammons – U.S. Congressman (Republican-New York, 1803-1807, 1809-1813)
John A. Scudder (A.B. Princeton 1775) – U.S. Congressman (Republican-New Jersey, 1810-1811)
Samuel Shaw – U.S. Congressman (Republican-Vermont, 1808-1813)
Daniel Sheffey – U.S. Congressman (Federalist-Virginia, 1809-1817)
Dennis Smelt – U.S. Congressman (Republican-Georgia, 1806-1811)
John Smith – U.S. Congressman (Republican-Virginia, 1801-1815)
Richard Stanford – U.S. Congressman (Republican-North Carolina, 1797-1816)
John Stanly – U.S. Congressman (Federalist-North Carolina, 1801-1803, 1809-1811)
James Stephenson – U.S. Congressman (Federalist-Virginia, 1803-1805, 1809-1811, 1822-1825)
Lewis Burr Sturges (B.A. Yale 1782) – U.S. Congressman (Federalist-Connecticut, 1805-1817)
Jacob Swoope – U.S. Congressman (Federalist-Virginia, 1809-1811)
Samuel Taggart (A.B. Dartmouth 1774) – U.S. Congressman (Federalist-Massachusetts, 1803-1817)
Benjamin Tallmadge (B.A. Yale 1773) – U.S. Congressman (Federalist-Connecticut, 1801-1817)
John Thompson – U.S. Congressman (Republican-New York, 1799-1801, 1807-1811)
Nicholas Van Dyke Jr. (A.B. Princeton 1788) – U.S. Congressman (Federalist-Delaware, 1807-1811)
Killian K. Van Rensselaer – U.S. Congressman (Federalist-New York, 1801-1811)
Laban Wheaton (B.A. Harvard 1774) – U.S. Congressman (Federalist-Massachusetts, 1809-1817)
James Wilson (B.A. Harvard 1789) – U.S. Congressman (Federalist-New Hampshire, 1809-1811)

Absent:

William A. Burwell (A.B. William and Mary) – U.S. Congressman (Republican-Virginia, 1806-1821)
John Clopton (A.B. Univ. of Pennsylvania 1776) – U.S. Congressman (Republican-Virginia, 1795-1799, March 4, 1801-Sept. 11, 1816)
Uri Tracy (B.A. Yale 1789) – U.S. Congressman (Republican-New York, 1805-1807, 1809-1813)
Joseph Bradley Varnum – U.S. Congressman (Democratic Republican-Massachusetts, March 4, 1795-June 29, 1811); Speaker of the House (Oct. 26, 1807-March 4, 1811)

FEBRUARY, 1811.

Bank of the United States.

SENATE.

acted, that I had done it *sub silentio*? Sir, this way of disposing of these formal voluntary acts of the Government, sanctioning the legality and constitutionality of the bank charter, will not be accepted. Some more happy expedient must be devised. But, sir, we are told, that because the Constitution contains within itself the principles of amendment, that if any doubts existed on this subject, it ought to have been amended. Whenever the States have conceived their rights to have been affected by any construction which has been given to the Constitution, they have shown that they know how to obtain relief. When the Supreme Court of the United States undertook to support the doctrine that an individual could sue a State, they did not hesitate to interfere, and the Constitution was amended. When an embargo was laid, in the year 1807, those States who were most inimical to that measure did not hesitate to offer an amendment to the Constitution. Whenever a construction is given to the Constitution by a legitimate and competent authority, those who are opposed to that construction ought to propose amendments, and not those who are satisfied with it. If the construction given to the Constitution by the creation of the bank was thought by the Republican party to be vicious, then indeed have they been guilty of the grossest act of negligence. It was in their power, and most assuredly it was their duty to have amended the Constitution, either by expressly giving or taking away the power. It was their duty to have settled the question forever. Suppose, sir, you now decide that it is unconstitutional for Congress to incorporate a bank; this will not settle the Constitutional question. It will unsettle and render uncertain what has been settled for twenty years. You say you have not the right to incorporate a bank. Ten years hence other men will come into power, and say they have the right, and will exercise that right for twenty years. The bank will then have been Constitutional for twenty years, unconstitutional for ten years, and Constitutional for twenty more. Are we to go on in this unsettled, miserable, halting manner? God forbid! Sir, I have closed the observations which I thought it my duty to make in reply to the comments which have been made upon the remarks which I had previously submitted to the consideration of this honorable body. If, sir, I preferred my political standing in the State which I have the honor to represent (and, sir, I do not profess to have any out of it) to the public welfare, I should rejoice at the success of the motion which has been made by the honorable gentleman from Tennessee (Mr. ANDERSON.) But, sir, as I believe the public welfare infinitely more important than any fleeting popularity which an individual like myself can expect to enjoy, I shall most sincerely regret the success of that motion. Sir, I have said but little about the degree of distress which will flow from the dissolution of the bank, because I have not that kind of evidence which would enable me to judge of it with any degree of accuracy. The convulsed state of the

European nations; the immense losses which our commerce has sustained by the operation of the decrees and orders of the tyrants of the land and the ocean, imperiously admonish us to beware of making untried and dangerous experiments. By supporting this institution, the tottering credit of the commercial class of your citizens may be upheld, until the storm shall have passed over. By overturning this great moneyed institution at the present crisis, you may draw down to undistinguished ruin thousands of your unfortunate and unoffending fellow-citizens.

[We have to regret the omission of two speeches in the course of the preceding debate, which are wanting to make it perfectly complete—that of Mr. Whiteside, the lowness of whose voice rendered it impossible for the reporter to follow him, and that of Mr. Anderson, the copy of the report of which was mislaid before it was committed to the press—both speeches in opposition to the renewal of the charter.]

The question was then taken on striking out the first section of the bill, (equivalent to a rejection,) when it appeared that there were for the motion 17, against it 17, as follows:

YEAS—Messrs. Anderson, Campbell, Clay, Cutts, Franklin, Gaillard, German, Giles, Gregg, Lambert, Leib, Mathewson, Reed, Robinson, Smith of Maryland, Whiteside, and Worthington.

NAYS—Messrs. Bayard, Bradley, Brent, Champlin, Condit, Crawford, Dana, Gilman, Goodrich, Horsey, Lloyd, Pickering, Pope, Smith of New York, Tait, Taylor, and Turner.

The Senate being equally divided, it became the duty of the VICE PRESIDENT to decide the question by his vote; previously to which he made the following observations:

GENTLEMEN: As the subject on which I am called upon to decide has excited great sensibility, I must solicit the indulgence of the Senate while I briefly state the reasons which influence my judgment.

Permit me to observe, that the question to be decided does not depend simply upon the right of Congress to establish under any modification a bank, but upon their power to establish a National Bank, as contemplated by this bill. In other words, can they create a body politic and corporate, not constituting a part of the Government, nor otherwise responsible to it but by forfeiture of charter, and bestow on its members privileges, immunities, and exemptions not recognised by the laws of the States, nor enjoyed by the citizens generally? It cannot be doubted but that Congress may pass all necessary and proper laws for carrying into execution the powers specifically granted to the Government, or to any department or officer thereof: but, in doing so, the means must be suited and subordinate to the end. The power to create corporations is not expressly granted; it is a high attribute of sovereignty and in its nature not accessorial or derivative by implication, but primary and independent.

I cannot believe that this interpretation of the Constitution will, in any degree, defeat the purposes for which it was formed. On the contrary, it does appear to me, that the opposite exposition has an inevitable tendency to consolidation, and affords just and serious cause of alarm.

In the course of a long life I have found that Gov-

SENATE.

Proceedings.

FEBRUARY, 1841.

ernment is not to be strengthened by an assumption of doubtful powers, but by a wise and energetic execution of those which are incontestable; the former never fails to produce suspicion and distrust, while the latter inspires respect and confidence.

If, however, after a fair experiment, the powers vested in the Government shall be found incompetent to the attainment of the objects for which it was instituted, the Constitution happily furnishes the means for remedying the evil by amendment, and I have no doubt that in such event on an appeal to the patriotism and good sense of the community it will be wisely applied.

I will not trespass upon the patience of the Senate any longer than to say, from the best examination I have been able to give the subject, I am constrained by a sense of duty to decide in the affirmative—that is, that the first section of the bill be stricken out.

THURSDAY, February 21.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to erect a light-house on Boon island, in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina; and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, in the State of Massachusetts;" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

On motion of Mr. LEIB,

Ordered, That it be postponed to the first Monday in December next.

The Senate resumed, as in Committee of the Whole, the bill to extend the right of suffrage in the Indiana Territory, and for other purposes; and the bill having been amended, the PRESIDENT reported it to the House accordingly.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes; and, on motion, it was agreed that it be made the order of the day for to-morrow.

The Senate resumed, as in Committee of the Whole, the bill in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio; and the bill having been amended, the PRESIDENT reported it to the House accordingly.

On the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to authorize the

election of sheriffs in the Indiana Territory," together with the amendment reported thereto by the select committee.

On motion, it was agreed that the further consideration thereof be postponed until to-morrow.

The Senate resumed as in Committee of the Whole, the bill, entitled "An act establishing navy hospitals."

Ordered, That it pass to the third reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Peter Audrain;" and,

Ordered, That it pass to the third reading.

Mr. SMITH, of Maryland, gave notice that to-morrow he should ask leave to bring in a bill to repeal the tenth section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" and to repeal the third section of the act, entitled "An act supplementary to the act, entitled 'An act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage,' passed 10th May, 1800."

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act in addition to the act, entitled 'An act concerning Consuls,' and for the further protection of American seamen," reported it amended; and the amendment was considered and agreed to, as in Committee of the whole; and the PRESIDENT reported the bill to the House accordingly.

On the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

Mr. CUTTS gave notice that to-morrow he should ask leave to bring in a bill to amend the act, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territories of Orleans and Louisiana."

FRIDAY, February 22.


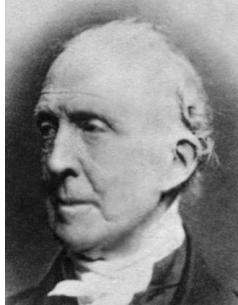
The bill entitled "An act to erect a light-house on Boon island, in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, in the State of Massachusetts," was read the second time.

Mr. LLOYD presented the petition of Moses Brown and others, on the subject; which was read. Whereupon, on motion by Mr. TURNER, the bill and petition was referred to a select committee, to consider and report thereon; and Messrs. LLOYD, TURNER, and CONDIT, were appointed the committee.

Mr. HORSEY, from the committee, reported the bill to extend the right of suffrage in the Indiana Territory, and for other purposes, correctly engrossed; and the bill was read the third time as amended, and passed.

Mr. HORSEY, from the committee, reported the bill in addition to the act to regulate the laying out and making a road from Cumberland, in the

Senators and Congressmen who voted “Nay” (Opposing the Postponement) on the Bank of the U.S. bill in 1811

				
Stephen R. Bradley B.A. Yale 1775 U.S. Senator (Dem. Rep.-Vermont, 1791-1795; 1801-1813)	Samuel W. Dana B.A. Yale 1775 U.S. Senator (Federalist-Conn., 1810-1821)	Chauncey Goodrich B.A. Yale 1776 U.S. Senator (Federalist- Connecticut, 1807-1813)	Timothy Pickering B.A. Harvard 1763 U.S. Senator (F-Mass., 1803-1811)	Christopher G. Champlin B.A. Harvard 1786 U.S. Senator (Federalist- Rhode Island, 1809-1811)
				
James A. Bayard Sr. A.B. Princeton 1784 U.S. Senator (Federalist- Delaware, 1804-1813)	John Taylor A.B. Princeton 1790 U.S. Senator (Democratic Republican-South Carolina, 1810-1816)	Benjamin Tallmadge B.A. Yale 1773 U.S. Congressman (F-Conn., 1801-1817)	Josiah Quincy B.A. Harvard 1790 U.S. Congressman (F-Mass., 1805-1813)	Laban Wheaton B.A. Harvard 1774 U.S. Congressman (F-Mass., 1809-1817)

Yea (Supporting the Postponement) (17 Democratic Republicans):

Joseph Insee Anderson – U.S. Senator (Democratic Republican-Tennessee, 1797-1815)
 Alexander Campbell – U.S. Senator (Democratic Republican-Ohio, 1809-1813)
 Henry Clay – U.S. Senator (Democratic Republican-Kentucky, 1806-1807; January 4, 1810-March 3, 1811; 1831-1842; 1849-1852)
 Charles Cutts (B.A. Harvard 1789) – U.S. Senator (Democratic Republican-New Hampshire, 1810-1813)
 Jesse Franklin – U.S. Senator (Democratic Republican-North Carolina, 1799-1805, 1807-1813)
 John Gaillard – U.S. Senator (Democratic Republican-South Carolina, 1804-1826)
 Obadiah German – U.S. Senator (Democratic Republican-New York, 1809-1815)
 William Branch Giles (A.B. Princeton 1781) – U.S. Senator (Democratic Republican-Virginia, 1804-1815)
 Andrew Gregg – U.S. Senator (Democratic Republican-Pennsylvania, 1807-1813)
 John Lambert – U.S. Senator (Democratic Republican-New Jersey, 1809-1815)
 Michael Leib – U.S. Senator (Democratic Republican-Pennsylvania, 1809-1814)
 Elisha Mathewson – U.S. Senator (Democratic Republican-Rhode Island, 1807-1811)
 Philip Reed – U.S. Senator (Democratic Republican-Maryland, 1806-1813)
 Jonathan Robinson – U.S. Senator (Democratic Republican-Vermont, 1807-1815)
 Samuel Smith – U.S. Senator (Democratic Republican-Maryland, 1803-1815, 1822-1833)
 Jenkin Whiteside – U.S. Senator (Democratic Republican-Tennessee, 1809-1811)
 Thomas Worthington – U.S. Senator (Democratic Republican-Ohio, 1803-1807; 1810-1814)

Nay (Opposing the Postponement) (10 Democratic Republicans, 7 Federalists):

James A. Bayard Sr. (A.B. Princeton 1784) – U.S. Senator (Federalist-Delaware, 1804-1813)
 Stephen R. Bradley (B.A. Yale 1775) – U.S. Senator (Democratic Republican-Vermont, 1791-1795; 1801-1813)
 Richard Brent – U.S. Senator (Democratic Republican-Virginia, 1809-1814)
 Christopher G. Champlin (B.A. Harvard 1786) – U.S. Senator (Federalist-Rhode Island, 1809-1811)
 John Condit – U.S. Senator (Democratic Republican-New Jersey, 1803-1809, 1809-1817)
 William Harris Crawford – U.S. Senator (Democratic Republican-Georgia, 1807-1813)
 Samuel W. Dana (B.A. Yale 1775) – U.S. Senator (Federalist-Connecticut, 1810-1821)
 Nicholas Gilman – U.S. Senator (Democratic Republican-New Hampshire, 1805-1814)
 Chauncey Goodrich (B.A. Yale 1776) – U.S. Senator (Federalist-Connecticut, 1807-1813)
 Outerbridge Horsey – U.S. Senator (Federalist-Delaware, 1810-1821)
 James Lloyd (B.A. Harvard 1787) – U.S. Senator (Federalist-Massachusetts, 1808-1813, 1822-1826)
 Timothy Pickering (B.A. Harvard 1763) – U.S. Senator (Federalist-Massachusetts, 1803-1811)
 John Pope – U.S. Senator (Democratic Republican-Kentucky, 1807-1813)
 John Smith – U.S. Senator (Democratic Republican-New York, 1804-1813)
 Charles Tait – U.S. Senator (Democratic Republican-Georgia, 1809-1819)
 John Taylor (A.B. Princeton 1790) – U.S. Senator (Democratic Republican-South Carolina, 1810-1816)
 James Turner – U.S. Senator (Democratic Republican-North Carolina, 1805-1816)



Alexander Hamilton (left), Oliver Wolcott Jr. (center), and George Clinton (right)

Alexander Hamilton (B.A. Columbia 1774), the inaugural Secretary of the Treasury (September 11, 1789-January 31, 1795) and co-author of the Federalist Papers, supported the establishment of the (First) Bank of the United States, a privately owned central bank, in 1791. Alexander Hamilton was a director of the Bank of New York (located in New York City) from 1784 to 1788.

Oliver Wolcott Jr., who served as Secretary of the Treasury (February 3, 1795 – December 31, 1800) and Comptroller of the Treasury (1791-1795) under President George Washington, was a director of the Bank of the United States from 1810 to 1811. Oliver Wolcott Jr. graduated from Yale University and was involved in the lucrative China trade in the early 1800s.

George Clinton, the Vice President of the United States from March 4, 1805 to April 20, 1812, cast the tie-breaking vote on the Bank bill in the U.S. Senate on February 20, 1811. Clinton's deciding vote in the U.S. Senate would terminate the extension of the charter of the First Bank of the United States and forced the directors of the (First) Bank of the United States to end the bank's operation as a central bank on March 3, 1811.



Bank of the United States in Philadelphia in the early 1800s

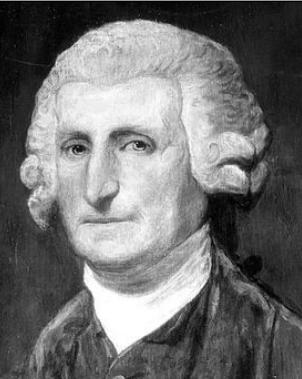
Both houses of Congress failed to renew the charter of the Bank of the United States by one vote during a session in early 1811. Members of the U.S. House of Representatives voted 65-64 for postponing indefinitely on renewing the charter of the Bank of the United States on January 24, 1811. Members of the U.S. Senate voted 17-17 for postponing indefinitely on renewing the charter of the Bank of the United States on February 20, 1811; Vice President George Clinton broke the deadlock in the U.S. Senate by voting against the renewal of the bank's charter. The (First) Bank of the United States in Philadelphia was closed on March 3, 1811. American and British merchants owned stocks in the privately-owned Bank of the United States.

Second Bank of the United States

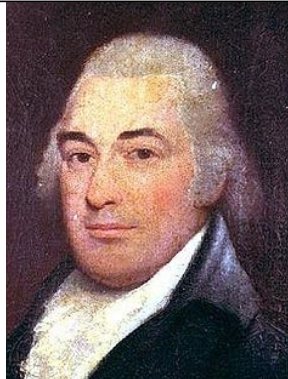


The Second Bank of the United States in Philadelphia operated from 1816 until 1836. The Second Bank of the United States, which was renamed United States Bank of Pennsylvania in 1837, became a private bank until the bank failed in 1841. President Andrew Jackson vetoed the renewal of the Bank on July 10, 1832. **Nicholas Biddle was arrested for fraud in Philadelphia in 1841**; however, Biddle was never tried in court and was eventually released from prison.

Presidents of the Bank of the United States (1791-1811, 1816-1836)



Thomas Willing
President of the Bank of the
United States (1791-1807);
Mayor of Philadelphia
(1763-1764)



William Jones
President of the Bank of the
United States (1816-1819);
Secretary of the Navy
(1813-1814)



Langdon Cheves
President of the Bank of the
United States (1819-1822);
Speaker of the U.S. House of
Representatives (1814-1815)



Nicholas Biddle
President of the Bank of the
United States (1823-1836);
President of the United States
Bank of Pennsylvania
(1837-1839)

The Bank of the United States

The First Bank of the United States (1791-1811)

The American Republic had considerable financial problems in its early days. The first American bank was organized by Robert Morris in 1781. This was a private bank but it helped in financing the Revolutionary War, which did not end until 1783. Alexander Hamilton, a major organizational innovator in the Republic, argued for the creation of a central bank, a bankers' bank which would be the lender of last resort. Such a central bank would stabilize the financial system and issue banknotes to supplement the gold and silver in circulation. Hamilton saw lending funds to the Federal Government as a major function of such a central bank.

Shortly after Hamilton proposed the creation of a National Bank for the U.S. a bill was introduced into Congress to accomplish Hamilton's proposal. There was major opposition to the bill on the grounds that creation of such a bank with a monopoly on issuing money was unconstitutional. The bill passed and was signed into law in 1791 but it provided only a twenty charter for a Bank of the United States. The charter would need to be renewed in 1811.

The Bank of the United States solved many of the monetary problems that troubled the country before 1791. But the Bank of the United States was a private institution and foreign buyers purchased ownership shares of the bank until the 70 percent of the bank was owned by foreigners. This was worrisome to American politicians but this high share of foreign ownership was not unusual in the American financial system. Britain had been supplying capital to the U.S. economy for some time.

But these concerns and politics resulted in a very close vote on the bill for renewing the charter. In the House of Representatives the vote was 65 to 64 for postponing indefinitely the rechartering. In the Senate the vote was a 17-17 tie which allowed the Vice President to cast the deciding vote. The Vice President, George Clinton, voted against the renewal of the bank's charter.

The War of 1812 revealed the weakness of the American financial system so in 1816 the charter of the Bank of the United States was rechartered. Support for the second Bank of the United States came from political figures such as President James Monroe and Senator John C. Calhoun who were concerned with the low credit and financial solvency of the Federal government, as revealed by the difficulties financing the costs of the War of 1812. Support also came from business leaders such as John Jacob Astor who were concerned with the financial chaos of the time.

The Second Bank of the United States (1816-1836)

The charter called for capital of \$35 million, of which \$7 million was to be supplied by the U.S. government. The Bank was controlled by a board of twenty directors, 15 elected by the private stockholders and 5 appointed by the President of the United States. The Bank was to pay the U.S. government \$1.5 million per year for its franchise.

Some political figures, e.g. Daniel Webster and John Randolph, opposed this mixing of private and public power but the Act of Congress was passed and President *Monroe* [error; **Madison**] signed it into law on April 10, 1816. But the charter was again limited to twenty years.

The first president of the Second Bank was William Jones. Jones had been Secretary of the Navy and later Acting Secretary of the Treasury during the War of 1812. His tenure as Secretary of the Treasury was marked by mismanagement of finances and there was no reason to believe that he would be any more competent in managing the Bank of the United States.

Under Jones the Bank opened branches in many other cities and expanded operations. It is important to note that while the Bank of the United States functioned as a central bank for the United States it was also a commercial bank involved in making loans. Other banks resented the competition from this Federally supported institution. It was taking business away from them. Two state governments tried to prohibit the establishment of branches of the Bank of the United States in their states and six others tried to levy prohibitive taxes on these branches to discourage their operation. It took a ruling by the U.S. Supreme Court to prevent these restrictions on the Bank of the United States. Chief Justice John Marshall in 1819 ruled that the Bank of the United States was a proper and necessary instrument of the United States Government for carrying out its fiscal operations. One can clearly see the perplexity of mixing public and private institutions. The Bank of the United States may have been a necessary instrument for fiscal operations of the U.S. government but it was also a private commercial bank.

The branches of the Second Bank were not closely controlled by the main Philadelphia institution and the Baltimore branch came under the control of individuals who looted it of a million dollars before they were caught. The Baltimore branch went into receivership and the whole Bank was close to bankruptcy. William Jones resigned in January of 1819.

The presidency of the Second Bank of the United States went to Langdon Cheves of South Carolina. Cheves cut back operation, reducing the bank loans from \$41 million to \$31 million and cut the amount of bank notes in circulation from \$8 million to \$3.5 million. Cheves' policies brought stability to the Second Bank but he was not without critics for these policies. The private stockholders resented the reduction in dividends. The private banks which criticized the expansion of the Second Bank also criticized its contraction because the reduction in credit jeopardized the solvencies of some businesses which were also debtors of those same private banks. In 1823 Cheves resigned and Nicholas Biddle of Philadelphia became president.

War of 1812: A Bankers' War?



British soldiers burn various buildings, including the White House, in Washington, D.C. on August 24, 1814 during War of 1812. Congress declared war on the British Empire on June 18, 1812. Disgruntled American political powerbrokers met privately at Hartford, Connecticut in December 1814 to discuss secession and armistice. The meeting was later known as the Hartford Convention.

British Cabinet Members during the War of 1812



**Robert Banks Jenkinson,
2nd Earl of Liverpool**
Prime Minister of the United Kingdom
(June 8, 1812–April 9, 1827);
Leader of the House of Lords
(1803-1806, 1807-1827)



Nicholas Vansittart, 1st Baron Bexley
Chancellor of the Exchequer
(May 12, 1812–January 31, 1823)



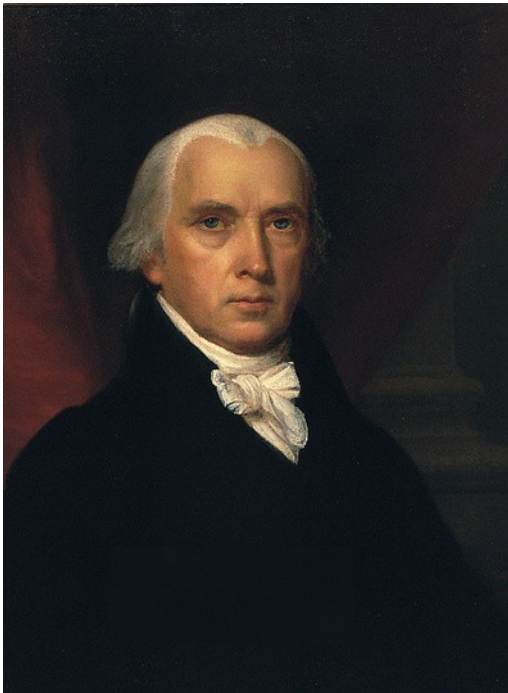
**Robert Stewart, 2nd Marquess of
Londonderry (Lord Castlereagh)**
Foreign Secretary [Secretary of State for
Foreign Affairs] (1812-1822);
Leader of the House of Commons
(1812-1822)



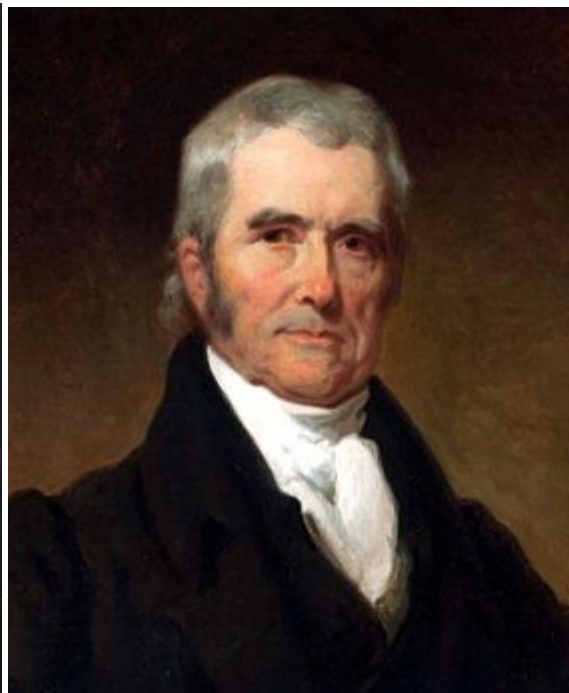
William Manning (1763-1835), Governor of the Bank of England (1812-1814), Deputy Governor of the Bank of England (1810-1812), Director of the Bank of England (1792-1810, 1814-1831); President of London Life Assurance (1817); Member of Parliament (1794-1820, 1821-1830) (Painting: [BBC](#))
(Source: <http://www.historyofparliamentonline.org/volume/1790-1820/member/manning-william-1763-1835>)



American diplomats, led by John Quincy Adams, and British diplomats sign the Treaty of Ghent in Ghent, Belgium (formerly Netherlands) on December 24, 1814, ending the War of 1812.



Left photo: President James Madison signed the Second Bank of the United States bill into law in April 1816 after the U.S. Senate passed the bill on April 3, 1816. James Madison, during his service as a Congressman from Virginia, voted against a bill establishing the First Bank of the United States in 1791.



Right photo: John Marshall, Chief Justice of the U.S. Supreme Court (1801-1835), presided over *McCulloch v. Maryland* in 1819, declaring that "Congress has power to incorporate a bank".

Seventh Annual Message

December 5, 1815

Fellow-Citizens of the Senate and House of Representatives:

I have the satisfaction on our present meeting of being able to communicate the successful termination of the war which had been commenced against the United States by the Regency of Algiers. The squadron in advance on that service, under Commodore Decatur, lost not a moment after its arrival in the Mediterranean in seeking the naval force of the enemy then cruising in that sea, and succeeded in capturing two of his ships, one of them the principal ship, commanded by the Algerine admiral. The high character of the American commander was brilliantly sustained on the occasion which brought his own ship into close action with that of his adversary, as was the accustomed gallantry of all the officers and men actually engaged. Having prepared the way by this demonstration of American skill and prowess, he hastened to the port of Algiers, where peace was promptly yielded to his victorious force.

In the terms stipulated the rights and honor of the United States were particularly consulted by a perpetual relinquishment on the part of the Dey of all pretensions to tribute from them. The impressions which have thus been made, strengthened as they will have been by subsequent transactions with the Regencies of Tunis and of Tripoli by the appearance of the larger force which followed under Commodore Bainbridge, the chief in command of the expedition, and by the judicious precautionary arrangements left by him in that quarter, afford a reasonable prospect of future security for the valuable portion of our commerce which passes within reach of the Barbary cruisers.

It is another source of satisfaction that the treaty of peace with Great Britain has been succeeded by a convention on the subject of commerce concluded by the plenipotentiaries of the two countries. In this result a disposition is manifested on the part of that nation corresponding with the disposition of the United States, which it may be hoped will be improved into liberal arrangements on other subjects on which the parties have mutual interests, or which might endanger their future harmony. Congress will decide on the expediency of promoting such a sequel by giving effect to the measure of confining the American navigation to American sea men - a measure which, at the same time that it might have that conciliatory tendency, would have the further advantage of increasing the independence of our navigation and the resources for our maritime defense.

In conformity with the articles in the treaty of Ghent relating to the Indians, as well as with a view to the tranquillity of our western and northwestern frontiers, measures were taken to establish an immediate peace with the several tribes who had been engaged in hostilities against the United States. Such of them as were invited to Detroit acceded readily to a renewal of the former treaties of friendship. Of the other tribes who were invited to a station on the Mississippi the greater number have also accepted the peace offered to them. The residue, consisting of the more distant tribes or parts of tribes, remain to be brought over by further explanations, or by such other means as may be adapted to the dispositions they may finally disclose.

The Indian tribes within and bordering on the southern frontier, whom a cruel war on their part had compelled us to chastise into peace, have latterly shown a restlessness which has called for preparatory measures for repressing it, and for protecting the commissioners engaged in carrying the terms of the peace into execution.

The execution of the act for fixing the military peace establishment has been attended with difficulties which even now can only be overcome by legislative aid. The selection of officers, the payment and discharge of the troops enlisted for the war, the payment of the retained troops and their reunion from detached and distant stations, the collection and security of the public property in the Quartermaster, Commissary, and Ordnance departments, and the constant medical assistance required in hospitals and garrisons rendered a complete execution of the act impracticable on the 1st of May, the period more immediately contemplated. As soon, however, as circumstances would permit, and as far as it has been practicable consistently with the public interests, the reduction of the Army has been accomplished; but the appropriations for its pay and for other branches of the military service having proved inadequate, the earliest attention to that subject will be necessary; and the expediency of continuing upon the peace establishment the staff officers who have hitherto been provisionally retained is also recommended to the consideration of Congress.

In the performance of the Executive duty upon this occasion there has not been wanting a just sensibility to the merits of the American Army during the late war; but the obvious policy and design in fixing an efficient military peace establishment did not afford an opportunity to distinguish the aged and infirm on account of their past services nor the wounded and disabled on account of their present sufferings.

The extent of the reduction, indeed, unavoidably involved the exclusion of many meritorious officers of every rank from the service of their country; and so equal as well as so numerous were the claims to attention that a decision by the standard of comparative merit could seldom be attained. Judged, however, in candor by a general standard of positive merit, the Army Register will, it is believed, do honor to the establishment, while the case of those officers whose names are not included in it devolves with the strongest interest upon the legislative authority for such provisions as shall be deemed the best calculated to give support and solace to the veteran and

the invalid, to display the beneficence as well as the justice of the Government, and to inspire a martial zeal for the public service upon every future emergency.

Although the embarrassments arising from the want of an uniform national currency have not been diminished since the adjournment of Congress, great satisfaction has been derived in contemplating the revival of the public credit and the efficiency of the public resources. The receipts into the Treasury from the various branches of revenue during the nine months ending on the 30th of September last have been estimated at \$12.5M; the issues of Treasury notes of every denomination during the same period amounted to the sum of \$14M, and there was also obtained upon loan during the same period a sum of \$9M, of which the sum of \$6M was subscribed in cash and the sum of \$3M in Treasury notes.

With these means, added to the sum of \$1.5M, being the balance of money in the Treasury on the 1st day of January, there has been paid between the 1st of January and the 1st of October on account of the appropriations of the preceding and of the present year (exclusively of the amount of the Treasury notes subscribed to the loan and of the amount redeemed in the payment of duties and taxes) the aggregate sum of \$33.5M, leaving a balance then in the Treasury estimated at the sum of \$3M. Independent, however of the arrearages due for military services and supplies, it is presumed that a further sum of \$5M, including the interest on the public debt payable on the 1st of January next, will be demanded at the Treasury to complete the expenditures of the present year, and for which the existing ways and means will sufficiently provide.

The national debt, as it was ascertained on the 1st of October last, amounted in the whole to the sum of \$120M, consisting of the unredeemed balance of the debt contracted before the late war (\$39M), the amount of the funded debt contracted in consequence of the war (\$64M), and the amount of the unfunded and floating debt, including the various issues of Treasury notes, \$17M, which is in gradual course of payment.

There will probably be some addition to the public debt upon the liquidation of various claims which are depending, and a conciliatory disposition on the part of Congress may lead honorably and advantageously to an equitable arrangement of the militia expenses incurred by the several States without the previous sanction or authority of the Government of the United States; but when it is considered that the new as well as the old portion of the debt has been contracted in the assertion of the national rights and independence, and when it is recollected that the public expenditures, not being exclusively bestowed upon subjects of a transient nature, will long be visible in the number and equipments of the American Navy, in the military works for the defense of our harbors and our frontiers, and in the supplies of our arsenals and magazines the amount will bear a gratifying comparison with the objects which have been attained, as well as with the resources of the country.

The arrangements of the finances with a view to the receipts and expenditures of a permanent peace establishment will necessarily enter into the deliberations of Congress during the present session. It is true that the improved condition of the public revenue will not only afford the means of maintaining the faith of the Government with its creditors inviolate, and of prosecuting successfully the measures of the most liberal policy, but will also justify an immediate alleviation of the burdens imposed by the necessities of the war.

It is, however, essential to every modification of the finances that the benefits of an uniform national currency should be restored to the community. The absence of the precious metals will, it is believed, be a temporary evil, but until they can again be rendered the general medium of exchange it devolves on the wisdom of Congress to provide a substitute which shall equally engage the confidence and accommodate the wants of the citizens throughout the Union. If the operation of the State banks can not produce this result, the probable operation of a national bank will merit consideration; and if neither of these expedients be deemed effectual it may become necessary to ascertain the terms upon which the notes of the Government (no longer required as an instrument of credit) shall be issued upon motives of general policy as a common medium of circulation.

Notwithstanding the security for future repose which the United States ought to find in their love of peace and their constant respect for the rights of other nations, the character of the times particularly inculcates the lesson that, whether to prevent or repel danger, we ought not to be unprepared for it. This consideration will sufficiently recommend to Congress a liberal provision for the immediate extension and gradual completion of the works of defense, both fixed and floating, on our maritime frontier, and an adequate provision for guarding our inland frontier against dangers to which certain portions of it may continue to be exposed.

As an improvement in our military establishment, it will deserve the consideration of Congress whether a corps of invalids might not be so organized and employed as at once to aid in the support of meritorious individuals excluded by age or infirmities from the existing establishment, and to procure to the public the benefit of their stationary services and of their exemplary discipline.

I recommend also an enlargement of the Military Academy already established, and the establishment of others in other sections of the Union; and I can not press too much on the attention of Congress such a classification and organization of the militia as will most effectually render it the safeguard of a free state. If experience has shewn in the recent splendid achievements of militia the value of this resource for the public defense, it has shewn also the importance of that skill in the use of arms and that familiarity with the essential rules of discipline which can not be expected from the regulations now in force.

With this subject is intimately connected the necessity of accommodating the laws in every respect to the great object of enabling the political authority of the Union to employ promptly and effectually the physical power of the Union in the cases designated by the Constitution.

The signal services which have been rendered by our Navy and the capacities it has developed for successful cooperation in the national defense will give to that portion of the public force its full value in the eyes of Congress, at an epoch which calls for the constant vigilance of all governments. To preserve the ships now in a sound state, to complete those already contemplated, to provide amply the imperishable materials for prompt augmentations, and to improve the existing arrangements into more advantageous establishments for the construction, the repairs, and the security of vessels of war is dictated by the soundest policy.

In adjusting the duties on imports to the object of revenue the influence of the tariff on manufactures will necessarily present itself for consideration. However wise the theory may be which leaves to the sagacity and interest of individuals the application of their industry and resources, there are in this as in other cases exceptions to the general rule. Besides the condition which the theory itself implies of reciprocal adoption by other nations, experience teaches that so many circumstances must concur in introducing and maturing manufacturing establishments, especially of the more complicated kinds, that a country may remain long without them, although sufficiently advanced and in some respects even peculiarly fitted for carrying them on with success. Under circumstances giving a powerful impulse to manufacturing industry it has made among us a progress and exhibited an efficiency which justify the belief that with a protection not more than is due to the enterprising citizens whose interests are now at stake it will become at an early day not only safe against occasional competitions from abroad, but a source of domestic wealth and even of external commerce.

In selecting the branches more especially entitled to the public patronage a preference is obviously claimed by such as will relieve the United States from a dependence on foreign supplies, ever subject to casual failures, for articles necessary for the public defense or connected with the primary wants of individuals. It will be an additional recommendation of particular manufactures where the materials for them are extensively drawn from our agriculture, and consequently impart and insure to that great fund of national prosperity and independence an encouragement which can not fail to be rewarded.

Among the means of advancing the public interest the occasion is a proper one for recalling the attention of Congress to the great importance of establishing throughout our country the roads and canals which can best be executed under the national authority. No objects within the circle of political economy so richly repay the expense bestowed on them; there are none the utility of which is more universally ascertained and acknowledged; none that do more honor to the governments whose wise and enlarged patriotism duly appreciates them. Nor is there any country which presents a field where nature invites more the art of man to complete her own work for his accommodation and benefit.

These considerations are strengthened, moreover, by the political effect of these facilities for intercommunication in bringing and binding more closely together the various parts of our extended confederacy. Whilst the States individually, with a laudable enterprise and emulation, avail themselves of their local advantages by new roads, by navigable canals, and by improving the streams susceptible of navigation, the General Government is the more urged to similar undertakings, requiring a national jurisdiction and national means, by the prospect of thus systematically completing so inestimable a work; and it is a happy reflection that any defect of constitutional authority which may be encountered can be supplied in a mode which the Constitution itself has providently pointed out.

The present is a favorable season also for bringing again into view the establishment of a national seminary of learning within the District of Columbia, and with means drawn from the property therein, subject to the authority of the General Government. Such an institution claims the patronage of Congress as a monument of their solicitude for the advancement of knowledge, without which the blessings of liberty can not be fully enjoyed or long preserved; as a model instructive in the formation of other seminaries; as a nursery of enlightened preceptors, and as a central resort of youth and genius from every part of their country, diffusing on their return examples of those national feelings, those liberal sentiments, and those congenial manners which contribute cement to our Union and strength to the great political fabric of which that is the foundation.

In closing this communication I ought not to repress a sensibility, in which you will unite, to the happy lot of our country and to the goodness of a superintending Providence, to which we are indebted for it. Whilst other portions of mankind are laboring under the distresses of war or struggling with adversity in other forms, the United States are in the tranquil enjoyment of prosperous and honorable peace. In reviewing the scenes through which it has been attained we can rejoice in the proofs given that our political institutions, founded in human rights and framed for their preservation, are equal to the severest trials of war, as well adapted to the ordinary periods of repose.

As fruits of this experience and of the reputation acquired by the American arms on the land and on the water, the nation finds itself possessed of a growing respect abroad and of a just confidence in itself, which are among the best pledges for its peaceful career. Under other aspects of our country the strongest features of its flourishing condition are seen in a population rapidly increasing on a territory as productive as it is extensive; in a general industry and fertile ingenuity which find their ample rewards, and in an affluent revenue which admits a reduction of the public burdens without withdrawing the means of sustaining the public credit, of gradually

discharging the public debt, of providing for the necessary defensive and precautionary establishments, and of patronizing in every authorized mode undertakings conducive to the aggregate wealth and individual comfort of our citizens.

It remains for the guardians of the public welfare to persevere in that justice and good will toward other nations which invite a return of these sentiments toward the United States; to cherish institutions which guarantee their safety and their liberties, civil and religious; and to combine with a liberal system of foreign commerce an improvement of the national advantages and a protection and extension of the independent resources of our highly favored and happy country.

In all measures having such objects my faithful cooperation will be afforded.

JAMES MADISON

Citation: John T. Woolley and Gerhard Peters, *The American Presidency Project* [online]. Santa Barbara, CA. Available from World Wide Web: <http://www.presidency.ucsb.edu/ws/?pid=29457>.

Eighth Annual Message

December 3, 1816

Fellow-Citizens of the Senate and House of Representatives:

In reviewing the present state of our country, our attention cannot be withheld from the effect produced by peculiar seasons which have very generally impaired the annual gifts of the earth and threatened scarcity in particular districts. Such, however, is the variety of soils, of climates, and of products within our extensive limits that the aggregate resources for subsistence are more than sufficient for the aggregate wants. And as far as an economy of consumption, more than usual, may be necessary, our thankfulness is due to Providence for what is far more than a compensation, in the remarkable health which has distinguished the present year.

Amidst the advantages which have succeeded the peace of Europe, and that of the United States with Great Britain, in a general invigoration of industry among us and in the extension of our commerce, the value of which is more and more disclosing itself to commercial nations, it is to be regretted that a depression is experienced by particular branches of our manufactures and by a portion of our navigation. As the first proceeds in an essential degree from an excess of imported merchandise, which carries a check in its own tendency, the cause in its present extent can not be very long in duration. The evil will not, however, be viewed by Congress without a recollection that manufacturing establishments, if suffered to sink too low or languish too long, may not revive after the causes shall have ceased, and that in the vicissitudes of human affairs situations may recur in which a dependence on foreign sources for indispensable supplies may be among the most serious embarrassments.

The depressed state of our navigation is to be ascribed in a material degree to its exclusion from the colonial ports of the nation most extensively connected with us in commerce, and from the indirect operation of that exclusion.

Previous to the late convention at London between the United States and Great Britain the relative state of the navigation laws of the two countries, growing out of the treaty of 1794, had given to the British navigation a material advantage over the American in the intercourse between the American ports and British ports in Europe. The convention of London equalized the laws of the two countries relating to those ports, leaving the intercourse between our ports and the ports of the British colonies subject, as before, to the respective regulations of the parties. The British Government enforcing now regulations which prohibit a trade between its colonies and the United States in American vessels, whilst they permit a trade in British vessels, the American navigation loses accordingly, and the loss is augmented by the advantage which is given to the British competition over the American in the navigation between our ports and British ports in Europe by the circuitous voyages enjoyed by the one and not enjoyed by the other.

The reasonableness of the rule of reciprocity applied to one branch of the commercial intercourse has been pressed on our part as equally applicable to both branches; but it is ascertained that the British cabinet declines all negotiation on the subject, with a disavowal, however, of any disposition to view in an unfriendly light whatever countervailing regulations the United States may oppose to the regulations of which they complain. The wisdom of the Legislature will decide on the course which, under these circumstances, is prescribed by a joint regard to the amicable relations between the two nations and to the just interests of the United States.

I have the satisfaction to state, generally, that we remain in amity with foreign powers.

An occurrence has indeed taken place in the Gulf of Mexico which, if sanctioned by the Spanish Government, may make an exception as to that power. According to the report of our naval commander on that station, one of our public armed vessels was attacked by an over-powering force under a Spanish commander, and the American flag, with the officers and crew, insulted in a manner calling for

prompt reparation. This has been demanded. In the mean time a frigate and a smaller vessel of war have been ordered into that Gulf for the protection of our commerce. It would be improper to omit that the representative of His Catholic Majesty in the United States lost no time in giving the strongest assurances that no hostile order could have emanated from his Government, and that it will be as ready to do as to expect whatever the nature of the case and the friendly relations of the two countries shall be found to require.

The posture of our affairs with Algiers at the present moment is not known. The Day, drawing pretexts from circumstances for which the United States were not answerable, addressed a letter to this Government declaring the treaty last concluded with him to have been annulled by our violation of it, and presenting as the alternative war or a renewal of the former treaty, which stipulated, among other things, an annual tribute. The answer, with an explicit declaration that the United States preferred war to tribute, required his recognition and observance of the treaty last made, which abolishes tribute and the slavery of our captured citizens. The result of the answer has not been received. Should he renew his warfare on our commerce, we rely on the protection it will find in our naval force actually in the Mediterranean.

With the other Barbary States our affairs have undergone no change.

The Indian tribes within our limits appear also disposed to remain at peace. From several of them purchases of lands have been made particularly favorable to the wishes and security of our frontier settlements, as well as to the general interests of the nation. In some instances the titles, though not supported by due proof, and clashing those of one tribe with the claims of another, have been extinguished by double purchases, the benevolent policy of the United States preferring the augmented expense to the hazard of doing injustice or to the enforcement of justice against a feeble and untutored people by means involving or threatening an effusion of blood.

I am happy to add that the tranquillity which has been restored among the tribes themselves, as well as between them and our own population, will favor the resumption of the work of civilization which had made an encouraging progress among some tribes, and that the facility is increasing for extending that divided and individual ownership, which exists now in movable property only, to the soil itself, and of thus establishing in the culture and improvement of it the true foundation for a transit from the habits of the savage to the arts and comforts of social life.

As a subject of the highest importance to the national welfare, I must again earnestly recommend to the consideration of Congress a reorganization of the militia on a plan which will form it into classes according to the periods of life more or less adapted to military services. An efficient militia is authorized and contemplated by the Constitution and required by the spirit and safety of free government. The present organization of our militia is universally regarded as less efficient than it ought to be made, and no organization can be better calculated to give to it its due force than a classification which will assign the foremost place in the defense of the country to that portion of its citizens whose activity and animation best enable them to rally to its standard. Besides the consideration that a time of peace is the time when the change can be made with most convenience and equity, it will now be aided by the experience of a recent war in which the militia bore so interesting a part.

Congress will call to mind that no adequate provision has yet been made for the uniformity of weights and measures also contemplated by the Constitution. The great utility of a standard fixed in its nature and founded on the easy rule of decimal proportions is sufficiently obvious. It led the Government at an early stage to preparatory steps for introducing it, and a completion of the work will be a just title to the public gratitude.

The importance which I have attached to the establishment of a university within this District on a scale and for objects worthy of the American nation induces me to renew my recommendation of it to the favorable consideration of Congress. And I particularly invite again their attention to the expediency of exercising their existing powers, and, where necessary, of resorting to the prescribed mode of enlarging them, in order to effectuate a comprehensive system of roads and canals, such as will have the effect of drawing more closely together every part of our country by promoting intercourse and improvements and by increasing the share of every part in the common stock of national prosperity.

Occurrences having taken place which shew that the statutory provisions for the dispensation of criminal justice are deficient in relation both to places and to persons under the exclusive cognizance of the national authority, an amendment of the law embracing such cases will merit the earliest attention of the Legislature. It will be a seasonable occasion also for inquiring how far legislative interposition may be further requisite in providing penalties for offenses designated in the Constitution or in the statutes, and to which either no penalties are annexed or none with sufficient certainty. And I submit to the wisdom of Congress whether a more enlarged revisal of the criminal code be not expedient for the purpose of mitigating in certain cases penalties which were adopted into it antecedent to experiment and examples which justify and recommend a more lenient policy.

The United States, having been the first to abolish within the extent of their authority the transportation of the natives of Africa into slavery, by prohibiting the introduction of slaves and by punishing their citizens participating in the traffic, can not but be gratified at the progress made by concurrent efforts of other nations toward a general suppression of so great an evil. They must feel at the same time the greater solicitude to give the fullest efficacy to their own regulations. With that view, the interposition of Congress appears to

be required by the violations and evasions which it is suggested are chargeable on unworthy citizens who mingle in the slave trade under foreign flags and with foreign ports, and by collusive importations of slaves into the United States through adjoining ports and territories. I present the subject to Congress with a full assurance of their disposition to apply all the remedy which can be afforded by an amendment of the law. The regulations which were intended to guard against abuses of a kindred character in the trade between the several States ought also to be rendered more effectual for their humane object.

To these recommendations I add, for the consideration of Congress, the expediency of a remodification of the judiciary establishment, and of an additional department in the executive branch of the Government.

The first is called for by the accruing business which necessarily swells the duties of the Federal courts, and by the great and widening space within which justice is to be dispensed by them. The time seems to have arrived which claims for members of the Supreme Court a relief from itinerary fatigues, incompatible as well with the age which a portion of them will always have attained as with the researches and preparations which are due to their stations and to the juridical reputation of their country. And considerations equally cogent require a more convenient organization of the subordinate tribunals, which may be accomplished without an objectionable increase of the number or expense of the judges.

The extent and variety of executive business also accumulating with the progress of our country and its growing population call for an additional department, to be charged with duties now over- burdening other departments and with such as have not been annexed to any department.

The course of experience recommends, as another improvement in the executive establishment, that the provision for the station of Attorney-General, whose residence at the seat of Government, official connections with it, and the management of the public business before the judiciary preclude an extensive participation in professional emoluments, be made more adequate to his services and his relinquishments, and that, with a view to his reasonable accommodation and to a proper depository of his official opinions and proceedings, there be included in the provision the usual appurtenances to a public office.

In directing the legislative attention to the state of the finances it is a subject of great gratification to find that even within the short period which has elapsed since the return of peace the revenue has far exceeded all the current demands upon the Treasury, and that under any probable diminution of its future annual products which the vicissitudes of commerce may occasion it will afford an ample fund for the effectual and early extinguishment of the public debt. It has been estimated that during the year 1816 the actual receipts of revenue at the Treasury, including the balance at the commencement of the year, and excluding the proceeds of loans and Treasury notes, will amount to about the sum of \$47,000,000; that during the same year the actual payments at the Treasury, including the payment of the arrearages of the War Department as well as the payment of a considerable excess beyond the annual appropriations, will amount to about the sum of \$38M, and that consequently at the close of the year there will be a surplus in the Treasury of about the sum of \$9M.

The operations of the Treasury continued to be obstructed by difficulties arising from the condition of the national currency, but they have nevertheless been effectual to a beneficial extent in the reduction of the public debt and the establishment of the public credit. The floating debt of Treasury notes and temporary loans will soon be entirely discharged. The aggregate of the funded debt, composed of debts incurred during the wars of 1776 and 1812, has been estimated with reference to the first of January next at a sum not exceeding \$110M. The ordinary annual expenses of the Government for the maintenance of all its institutions, civil, military, and naval, have been estimated at a sum <\$20M, and the permanent revenue to be derived from all the existing sources has been estimated at a sum of \$25M.

Upon this general view of the subject it is obvious that there is only wanting to the fiscal prosperity of the Government the restoration of an uniform medium of exchange. The resources and the faith of the nation, displayed in the system which Congress has established, insure respect and confidence both at home and abroad. The local accumulations of the revenue have already enabled the Treasury to meet the public engagements in the local currency of most of the States, and it is expected that the same cause will produce the same effect throughout the Union; but for the interests of the community at large, as well as for the purposes of the Treasury, it is essential that the nation should possess a currency of equal value, credit, and use wherever it may circulate. The Constitution has intrusted Congress exclusively with the power of creating and regulating a currency of that description, and the measures which were taken during the last session in execution of the power give every promise of success. The Bank of the United States has been organized under auspices the most favorable, and can not fail to be an important auxiliary to those measures.

For a more enlarged view of the public finances, with a view of the measures pursued by the Treasury Department previous to the resignation of the late Secretary, I transmit an extract from the last report of that officer. Congress will perceive in it ample proofs of the solid foundation on which the financial prosperity of the nation rests, and will do justice to the distinguished ability and successful exertions with which the duties of the Department were executed during a period remarkable for its difficulties and its peculiar perplexities.

The period of my retiring from the public service being at little distance, I shall find no occasion more proper than the present for expressing to my fellow citizens my deep sense of the continued confidence and kind support which I have received from them. My grateful recollection of these distinguished marks of their favorable regard can never cease, and with the consciousness that, if I have not served my country with greater ability, I have served it with a sincere devotion will accompany me as a source of unfailing gratification.

Happily, I shall carry with me from the public theater other sources, which those who love their country most will best appreciate. I shall behold it blessed with tranquillity and prosperity at home and with peace and respect abroad. I can indulge the proud reflection that the American people have reached in safety and success their 40th year as an independent nation; that for nearly an entire generation they have had experience of their present Constitution, the off-spring of their undisturbed deliberations and of their free choice; that they have found it to bear the trials of adverse as well as prosperous circumstances; to contain in its combination of the federate and elective principles a reconciliation of public strength with individual liberty, of national power for the defense of national rights with a security against wars of injustice, of ambition, and vain-glory in the fundamental provision which subjects all questions of war to the will of the nation itself, which is to pay its costs and feel its calamities. Nor is it less a peculiar felicity of this Constitution, so dear to us all, that it is found to be capable, without losing its vital energies, of expanding itself over a spacious territory with the increase and expansion of the community for whose benefit it was established.

And may I not be allowed to add to this gratifying spectacle that I shall read in the character of the American people, in their devotion to true liberty and to the Constitution which is its palladium, sure presages that the destined career of my country will exhibit a Government pursuing the public good as its sole object, and regulating its means by the great principles consecrated in its charter and by those moral principles to which they are so well allied; a Government which watches over the purity of elections, the freedom of speech and of the press, the trial by jury, and the equal interdict against encroachments and compacts between religion and the state; which maintains inviolably the maxims of public faith, the security of persons and property, and encourages in every authorized mode the general diffusion of knowledge which guarantees to public liberty its permanency and to those who possess the blessing the true enjoyment of it; a Government which avoids intrusions on the internal repose of other nations, and repels them from its own; which does justice to all nations with a readiness equal to the firmness with which it requires justice from them; and which, whilst it refines its domestic code from every ingredient not congenial with the precepts of an enlightened age and the sentiments of a virtuous people, seeks by appeals to reason and by its liberal examples to infuse into the law which governs the civilized world a spirit which may diminish the frequency or circumscribe the calamities of war, and meliorate the social and beneficent relations of peace; a Government, in a word, whose conduct within and without may bespeak the most noble of ambitions - that of promoting peace on earth and good will to man.

These contemplations, sweetening the remnant of my days, will animate my prayers for the happiness of my beloved country, and a perpetuity of the institutions under which it is enjoyed.

JAMES MADISON

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Corporate sponsors of the Second Bank of the United States in 1816:
John Jacob Astor (left, born in Germany, 1763-1848) and Stephen Girard (right, born in France, 1750-1831)
John Jacob Astor was reportedly the wealthiest man in America at the time of his death in 1848.

Roll Call on the Second Bank of the United States in 1816

U.S. Senate (April 3, 1816):

Yea Votes (22 Senators: 17 Democratic Republican, 4 Federalists, 1 Whig (Anti-Democrat)):

James Barbour – U.S. Senator (Whig-Virginia, 1815-1825); Governor of Virginia (1812-1814); Secretary of War (1825-1828)
William Taylor Barry (A.B. William and Mary 1803) – U.S. Senator (DR-Kentucky, 1814-1816); U.S. Postmaster General (1829-1835)
James Brown – U.S. Senator (Democratic Republican-Louisiana, 1813-1817; 1819-1823); U.S. Minister to France (1823-1829)
George W. Campbell (A.B. Princeton 1794) – U.S. Senator (Democratic Republican-Tennessee, 1811-1814, 1815-1818)
Dudley Chase (A.B. Dartmouth 1791) – U.S. Senator (Democratic Republican-Vermont, 1813-1817, 1825-1831)
John Condit – U.S. Senator (Democratic Republican-New Jersey, 1803-1809, 1809-1817)
David Daggett (B.A. Yale 1783) – U.S. Senator (Federalist-Connecticut, 1813-1819); Mayor of New Haven, Connecticut (1828-1830)
Eligius Fromentin – U.S. Senator (Democratic Republican, Louisiana, 1813-1819)
Robert G. Harper (A.B. Princeton 1785) – U.S. Senator (Federalist-Maryland, January 1816-December 1816)
Outerbridge Horsey – U.S. Senator (Federalist-Delaware, 1810-1821)
Jeremiah Brown Howell (A.B. Brown 1789) – U.S. Senator (Democratic Republican-Rhode Island, 1811-1817)
William Hunter (A.B. Brown 1791) – U.S. Senator (Federalist-Rhode Island, 1811-1821); Trustee of Brown University (1800-1838)
Abner Lacock – U.S. Senator (Democratic Republican, Pennsylvania, 1813-1819)
Armistead Thomson Mason (A.B. William and Mary 1807) – U.S. Senator (Democratic Republican-Virginia, January 3, 1816-March 3, 1817)
Jeremiah Morrow – U.S. Senator (Democratic Republican-Ohio, 1813-1819); Governor of Ohio (1822-1826)
Jonathan Roberts – U.S. Senator (Democratic Republican, Pennsylvania, 1814-1821)
Isham Talbot – U.S. Senator (Democratic Republican-Kentucky, 1815-1819, 1820-1825)
Charles Tait – U.S. Senator (Democratic Republican-Georgia, 1809-1819)
John Taylor (A.B. Princeton 1790) – U.S. Senator (Democratic Republican-South Carolina, 1810-1816)
James Turner – U.S. Senator (Democratic Republican-North Carolina, 1805-1816)
Joseph Bradley Varnum – U.S. Senator (Democratic Republican-Massachusetts, 1811-1817)
John Williams – U.S. Senator (Democratic Republican-Tennessee, 1815-1823)

Nay Votes (12 Senators: 5 Democratic Republicans, 7 Federalists):

Samuel W. Dana (B.A. Yale 1775) – U.S. Senator (Federalist-Connecticut, 1810-1821)
John Gaillard – U.S. Senator (Democratic Republican-South Carolina, 1804-1826)
Robert Henry Goldsborough – U.S. Senator (Federalist-Maryland, 1813-1819, 1835-1836)
Christopher Gore (B.A. Harvard 1776) – U.S. Senator (Federalist-Massachusetts, 1813-1816)
Rufus King (B.A. Harvard 1777) – U.S. Senator (Federalist-New York, 1789-1796; 1813-1825)
Nathaniel Macon – U.S. Senator (Republican-North Carolina, 1815-1828)
Jeremiah Mason (B.A. Yale 1788) – U.S. Senator (Federalist-New Hampshire, 1813-1817)
Benjamin Ruggles – U.S. Senator (Democratic Republican-Ohio, 1815-1833)
Nathan Sanford – U.S. Senator (Democratic Republican-New York, 1815-1821, 1826-1831)
Isaac Tichenor (A.B. Princeton 1775) – U.S. Senator (Federalist-Vermont, 1796-1797, 1815-1821)
William Hill Wells – U.S. Senator (Federalist-Delaware, 1799-1804; 1813-1817)
James Jefferson Wilson – U.S. Senator (Democratic Republican-New Jersey, 1815-1821)

Absent:

Thomas W. Thompson (B.A. Harvard 1786) – U.S. Senator (Federalist-New Hampshire, 1814-1817)

Note: The U.S. Senate passed a bill incorporating the Second Bank of the United States on April 3, 1816, with 22 in favor to 12 against. The U.S. House of Representatives passed a bill incorporating the Second Bank of the United States on March 14, 1816, with 80 in favor and 71 against. Speaker of the House Henry Clay was absent and did not vote on the bill.

“Upon this general view of the subject it is obvious that there is only wanting to the fiscal prosperity of the Government the restoration of an uniform medium of exchange. The resources and the faith of the nation, displayed in the system which Congress has established, insure respect and confidence both at home and abroad. The local accumulations of the revenue have already enabled the Treasury to meet the public engagements in the local currency of most of the States, and it is expected that the same cause will produce the same effect throughout the Union; but for the interests of the community at large, as well as for the purposes of the Treasury, **it is essential that the nation should possess a currency of equal value, credit, and use wherever it may circulate. The Constitution has intrusted Congress exclusively with the power of creating and regulating a currency of that description, and the measures which were taken during the last session in execution of the power give every promise of success. The Bank of the United States has been organized under auspices the most favorable, and can not fail to be an important auxiliary to those measures.**”
– U.S. President James Madison, Eighth Annual Message to Congress (State of the Union Address), December 3, 1816

U.S. House of Representatives (March 14, 1816):

Yeas: (80 Congressmen: 65 Republicans, 14 Federalists, 1 independent)

Asa Adgate – U.S. Congressman (Republican-New York, June 7, 1815-March 3, 1817)
John Alexander – U.S. Congressman (Republican-Ohio, 1813-1817)
Charles Humphrey Atherton (B.A. Harvard 1794) – U.S. Congressman (Federalist-New Hampshire, 1815-1817)
George Baer Jr. – U.S. Congressman (Federalist-Maryland, 1797-1801, 1815-1817)
Samuel R. Betts (B.A. Williams College 1806) – U.S. Congressman (Republican-New York, 1815-1817)
John Linscom Boss Jr. – U.S. Congressman (Federalist-Rhode Island, 1815-1819)
George Bradbury (B.A. Harvard 1789) – U.S. Congressman (Federalist-Massachusetts, 1813-1817)
Benjamin Brown – U.S. Congressman (Federalist-Massachusetts, 1815-1817)
John C. Calhoun (B.A. Yale 1804) – U.S. Congressman (Democratic Republican-South Carolina, 1811-1817)
Newton Cannon – U.S. Congressman (Republican-Tennessee, 1814-1817, 1819-1823); Governor of Tennessee (1835-1839)
Epaphroditus Champion – U.S. Congressman (Federalist-Connecticut, 1807-1817)
John Joel Chappell – U.S. Congressman (Republican-South Carolina, 1813-1817)
James West Clark – U.S. Congressman (Republican-North Carolina, 1815-1817)
James Clark – U.S. Congressman (Republican-Kentucky, March 4, 1813-April 8, 1816, 1825-1831); Governor of Kentucky (1836-1839)
David Clendennin – U.S. Congressman (Republican-Ohio, October 11, 1814-March 3, 1817)
Oliver Cromwell Comstock – U.S. Congressman (Republican-New York, March 4, 1813-March 3, 1819)
Lewis Conduct (University of Pennsylvania 1794) – U.S. Congressman (Republican-New Jersey, 1811-1817, 1821-1833)
Samuel Shepard Conner (B.A. Yale 1806) – U.S. Congressman (Republican-Massachusetts, 1815-1817)
William Creighton Jr. – U.S. Congressman (Republican-Ohio, May 4, 1813-March 3, 1817, 1827-1828, 1829-1833)
Henry Crocheron – U.S. Congressman (Republican-New York, 1815-1817)
Alfred Cuthbert (A.B. Princeton 1803) – U.S. Congressman (Republican-Georgia, 1813-1816, 1821-1827)
Weldon Nathaniel Edwards – U.S. Congressman (Republican-North Carolina, February 7, 1816-March 3, 1827)
Daniel Munroe Forney – U.S. Congressman (Republican-North Carolina, 1815-1818)
John Forsyth (A.B. Princeton 1799) – U.S. Congressman (Democratic Republican-Georgia, 1813-1818, 1823-1827)
Thomas Gholson Jr. – U.S. Congressman (Republican-Virginia, November 7, 1808-July 4, 1816)
Isaac Griffin – U.S. Congressman (Republican-Pennsylvania, May 24, 1813, to March 3, 1817)
Thomas P. Grosvenor (B.A. Yale 1800) – U.S. Congressman (Federalist-New York, 1813-1817)
Aylett Hawes – U.S. Congressman (Republican-Virginia, 1811-1817)
Bennett H. Henderson – U.S. Congressman (Republican-Tennessee, 1815-1817)
Benjamin Huger – U.S. Congressman (Federalist-South Carolina, 1799-1805, 1815-1817)
John Whitefield Hulbert (B.A. Harvard 1795) – U.S. Congressman (Federalist-Massachusetts, 1814-1817)
John Pratt Hungerford – U.S. Congressman (Republican-Virginia, 1811, 1813-1817)
Samuel D. Ingham – U.S. Congressman (Republican-Pennsylvania, 1813-1818, 1822-1829); Secretary of the Treasury (1829-1831)
William Irving – U.S. Congressman (Republican-New York, January 22, 1814-March 3, 1819)
John George Jackson – U.S. Congressman (Republican-Virginia, 1803-1810, 1813-1817)
Luther Jewett (A.B. Dartmouth 1795) – U.S. Congressman (Federalist-Vermont, 1815-1817)
John Kerr – U.S. Congressman (Republican-Virginia, March 4, 1813-March 3, 1815, October 30, 1815-March 3, 1817)
William Rufus de Vane King – U.S. Congressman (DR-North Carolina, 1811-1816); U.S. Senator (Alabama, 1819-1844; 1848-1852)
William Carter Love – U.S. Congressman (Republican-North Carolina, 1815-1817)
William Lowndes – U.S. Congressman (Republican-South Carolina, March 4, 1811-May 8, 1822)
Wilson Lumpkin – U.S. Congressman (Georgia, 1815-1817, 1827-1831); Governor of Georgia (1831-1835); U.S. Senator (1837-1841)
William Maclay – U.S. Congressman (Republican-Pennsylvania, 1815-1819)
James Brown Mason (A.B. Brown 1791) – U.S. Congressman (Federalist-Rhode Island, 1815-1819)
William McCoy – U.S. Congressman (Republican-Virginia, 1811-1833)
Samuel McKee – U.S. Congressman (Republican-Kentucky, 1809-1817)
Henry Middleton – U.S. Congressman (Republican-South Carolina, 1815-1819); U.S. Minister to Russia (1820-1830)
Thomas Moore – U.S. Congressman (Republican-South Carolina, 1801-1813, 1815-1817)
Jonathan Ogden Moseley (B.A. Yale 1780) – U.S. Congressman (Federalist-Connecticut, 1805-1821)
William Hardy Murfree (B.A. Univ. of North Carolina 1801) – U.S. Congressman (Republican-North Carolina, 1813-1817)
Jeremiah Nelson (A.B. Dartmouth 1790) – U.S. Congressman (Federalist-Massachusetts, 1805-1807, 1815-1825, 1831-1833)
Albion K. Parris (A.B. Dartmouth 1806) – U.S. Congressman (Republican-Massachusetts, 1815-1818)
Israel Pickens – U.S. Congressman (Republican-North Carolina, 1811-1817); Governor of Alabama (1821-1825)
William Pinkney – U.S. Congressman (Democratic Republican-Maryland, March 4, 1815-April 18, 1816); U.S. Senator (1819-1822)
William Piper – U.S. Congressman (Republican-Pennsylvania, 1811-1817)
Thomas Bolling Robertson – U.S. Congressman (Republican-Louisiana, April 30, 1812-April 20, 1818); Governor of Louisiana (1820-1822)
Solomon P. Sharp – U.S. Congressman (Republican-Kentucky, 1813-1817); Attorney General of Kentucky (1820-1824)
Samuel Smith – U.S. Congressman (DR-Maryland, 1793-1803, Jan. 31, 1816-Dec. 17, 1822); U.S. Senator (Maryland, 1803-1815, 1822-1833)
Ballard Smith – U.S. Congressman (Republican-Virginia, 1815-1821)
Henry Southard – U.S. Congressman (Republican-New Jersey, 1801-1811, 1815-1821)
Micah Taul – U.S. Congressman (Republican-Kentucky, 1815-1817)
John W. Taylor (A.B. Union College 1803) – U.S. Congressman (Republican-New York, 1813-1833)
John Taylor – U.S. Congressman (Republican-South Carolina, 1815-1817)
Thomas Telfair (A.B. Princeton 1805) – U.S. Congressman (Republican-Georgia, 1813-1817)
Isaac Thomas – U.S. Congressman (Republican-Tennessee, 1815-1817)
Enos Thompson Throop – U.S. Congressman (Republican-New York, March 4, 1815-June 4, 1816); Governor of New York (1829-1833)
George Townsend – U.S. Congressman (Republican-New York, 1815-1819)
Henry St. George Tucker (A.B. William and Mary 1798) – U.S. Congressman (Republican-Virginia, 1815-1819)
Thomas Ward (A.B. Princeton 1803?) – U.S. Congressman (Republican-New Jersey, 1813-1817)
Peter Hercules Wendover – U.S. Congressman (Republican-New York, 1815-1821); Sheriff of New York County (1822-1825)

Laban Wheaton (B.A. Harvard 1774) – U.S. Congressman (Federalist-Massachusetts, 1809-1817)
Richard Henry Wilde – U.S. Congressman (Republican-Georgia, 1815-1817, 1825, 1827-1835)
James W. Wilkin (A.B. Princeton 1785) – U.S. Congressman (Republican-New York, 1815-1819)
Lewis Williams (B.A. Univ. of North Carolina 1808) – U.S. Congressman (Republican-North Carolina, 1815-1842)
Westel Willoughby Jr. – U.S. Congressman (Republican-New York, December 13, 1815-March 3, 1817)
Thomas Wilson – U.S. Congressman (Republican-Pennsylvania, May 4, 1813-March 3, 1817)
William Wilson – U.S. Congressman (Republican-Pennsylvania, 1815-1819)
William Woodward – U.S. Congressman (Republican-South Carolina, 1815-1817)
Robert Wright – U.S. Congressman (Democratic Republican-Maryland, 1810-1817, 1821-1823); Governor of Maryland (1806-1809)
Bartlett Yancey – U.S. Congressman (Republican-North Carolina, 1813-1817)
John B. Yates – U.S. Congressman (Republican-New York, 1815-1817)

Nays: (71 Congressmen: 39 Federalists, 32 Republicans)

Ezra Baker – U.S. Congressman (Republican-New Jersey, 1815-1817)
Philip Pendleton Barbour (A.B. William and Mary 1799) – U.S. Congressman (Republican-Virginia, 1814-1825, 1827-1830)
Burwell Bassett – U.S. Congressman (Republican-Virginia, 1805-1813, 1815-1819, 1821-1829)
Benjamin Bennet – U.S. Congressman (Republican-New Jersey, March 4, 1815-March 3, 1819)
James Birdsall – U.S. Congressman (Republican-New York, March 4, 1815-March 3, 1817)
William G. Blount – U.S. Congressman (Republican-Tennessee, Dec. 8, 1815-March 3, 1819); Secretary of State of Tennessee (1811-1815)
James Breckenridge (A.B. William and Mary 1785) – U.S. Congressman (Federalist-Virginia, 1809-1817)
Thomas Burnside – U.S. Congressman (Republican-Pennsylvania, October 10, 1815-April 1816)
William A. Burwell (A.B. William and Mary) – U.S. Congressman (Republican-Virginia, 1806-1821)
Daniel Cady – U.S. Congressman (Federalist-New York, 1815-1817)
James Caldwell – U.S. Congressman (Republican-Ohio, 1813-1817)
Bradbury Cilley – U.S. Congressman (Federalist-New Hampshire, 1813-1817)
Thomas Clayton – U.S. Congressman (Federalist-Delaware, 1815-1817); U.S. Senator (Delaware, 1824-1827, 1837-1847)
John Clopton (A.B. University of Pennsylvania 1776) – U.S. Congressman (Republican-Virginia, 1795-1799, March 4, 1801-Sept. 11, 1816)
Thomas Cooper – U.S. Congressman (Federalist-Delaware, 1813-1817)
William Crawford (A.B. Princeton 1781?) – U.S. Congressman (Republican-Pennsylvania, 1809-1817)
John Culpeper – U.S. Congressman (Federalist-North Carolina, 1807-1808, 1808-1809, 1813-1817, 1819-1821, 1823-1825, 1827-1829)
William Darlington – U.S. Congressman (Republican-Pennsylvania, 1815-1817, 1819-1823)
John Davenport (B.A. Yale 1770) – U.S. Congressman (Federalist-Connecticut, 1799-1817)
Joseph Desha – U.S. Congressman (Republican-Kentucky, 1807-1819); Governor of Kentucky (1824-1828)
William Gaston (A.B. Princeton 1796) – U.S. Congressman (Federalist-North Carolina, 1813-1817)
Thomas R. Gold (B.A. Yale 1786) – U.S. Congressman (Federalist-New York, 1809-1813, 1815-1817)
Charles Goldsborough – U.S. Congressman (Federalist-Maryland, 1805-1817); Governor of Maryland (1819)
Peterson Goodwyn – U.S. Congressman (Republican-Virginia, 1803-1818)
John Hahn – U.S. Congressman (Republican-Pennsylvania, 1815-1817)
William Hale – U.S. Congressman (Federalist-New Hampshire, 1809-1811, 1813-1817)
Bolling Hall – U.S. Congressman (Republican-Georgia, 1811-1817)
Alexander C. Hanson – U.S. Congressman (Federalist-Maryland, 1813-1816); U.S. Senator (Maryland, 1816-1819)
Benjamin Hardin – U.S. Congressman (Republican-Kentucky, 1815-1817, 1819-1823, 1833-1837)
John Carlyle Herbert – U.S. Congressman (Federalist-Maryland, 1815-1819)
Joseph Hopkinson (A.B. University of Pennsylvania 1786) – U.S. Congressman (Federalist-Pennsylvania, 1815-1819)
James Johnson (A.B. William and Mary 1795) – U.S. Congressman (Republican-Virginia, 1813-1820)
Moss Kent – U.S. Congressman (Federalist-New York, March 4, 1813-March 3, 1817)
Chauncey Langdon (B.A. Yale 1787) – U.S. Congressman (Federalist-Vermont, 1815-1817)
Lyman Law (B.A. Yale 1791) – U.S. Congressman (Federalist-Connecticut, 1811-1817)
Joseph Lewis Jr. – U.S. Congressman (Federalist-Virginia, 1803-1817)
John Lovett (B.A. Yale 1782) – U.S. Congressman (Federalist-New York, 1813-1817)
Aaron Lyle – U.S. Congressman (Republican-Pennsylvania, 1809-1817)
Asa Lyon (A.B. Dartmouth 1790) – U.S. Congressman (Federalist-Vermont, 1815-1817)
Charles Marsh (A.B. Dartmouth 1786) – U.S. Congressman (Federalist-Vermont, 1815-1817); Founder of the American Colonization Society
William Mayrant – U.S. Congressman (Republican-South Carolina, March 4, 1815-October 21, 1816)
Alney McLean – U.S. Congressman (Republican-Kentucky, 1815-1817, 1819-1821)
John McLean – U.S. Congressman (Republican-Ohio, 1813-1816); U.S. Postmaster Gen. (1823-29); Justice, U.S. Supreme Court (1829-1861)
William Milnor – U.S. Congressman (Federalist-Pennsylvania, 1807-1811, 1815-1817, 1821-1822); Mayor of Philadelphia (1829-1830)
Thomas Newton Jr. – U.S. Congressman (Republican-Virginia, 1801-1829, 1829-1830, 1831-1833)
John Noyes (A.B. Dartmouth 1795) – U.S. Congressman (Federalist-Vermont, 1815-1817)
Stephen Ormsby – U.S. Congressman (Republican-Ky., 1811-1813, 1813-1817); President of Louisville, Ky. branch of Bank of the U.S. (1817)
Timothy Pickering (B.A. Harvard 1763) – U.S. Congressman (Federalist-Massachusetts, 1813-1817)
Timothy Pitkin (B.A. Yale 1785) – U.S. Congressman (Federalist-Connecticut, 1805-1819)
John Randolph – U.S. Congressman (Republican-Virginia, 1799-1813, 1815-1817, 1819-1825, 1827-1829, 1833)
John Reed (A.B. Brown 1803) – U.S. Congressman (Federalist-Massachusetts, 1813-1817, 1821-1841)
Erastus Root (A.B. Dartmouth 1793) – U.S. Congressman (Republican-New York, 1803-1805, 1809-1811, 1815-1817, 1831-1833)
John Ross – U.S. Congressman (Republican-Pennsylvania, 1809-1811, March 4, 1815-February 24, 1818)
Nathaniel Ruggles (B.A. Harvard 1781) – U.S. Congressman (Federalist-Massachusetts, 1813-1819)
John Sergeant (A.B. Princeton 1795) – U.S. Congressman (Federalist-Pennsylvania, 1815-1823, 1827-1829, 1837-1841)
John Savage – U.S. Congressman (Republican-New York, 1815-1819); Chief Justice of New York State Supreme Court (1823-1836)
Daniel Sheffey – U.S. Congressman (Federalist-Virginia, 1809-1817)
Thomas Smith – U.S. Congressman (Federalist-Pennsylvania, 1815-1817)
Richard Stanford – U.S. Congressman (Republican-North Carolina, 1797-1816)


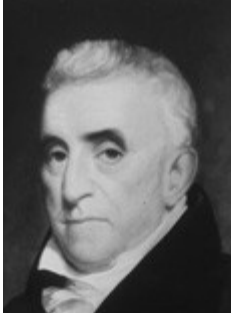


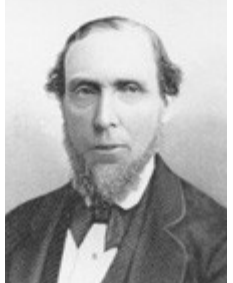
Asahel Stearns (B.A. Harvard 1797) – U.S. Congressman (Federalist-Massachusetts, 1815-1817)
 Solomon Strong (B.A. Williams College 1798) – U.S. Congressman (Federalist-Massachusetts, 1815-1819)
 Lewis Burr Sturges (B.A. Yale 1782) – U.S. Congressman (Federalist-Connecticut, 1805-1817)
 Samuel Taggart (A.B. Dartmouth 1774) – U.S. Congressman (Federalist-Massachusetts, 1803-1817)
 Benjamin Tallmadge (B.A. Yale 1773) – U.S. Congressman (Federalist-Connecticut, 1801-1817)
 Roger Vose (B.A. Harvard 1790) – U.S. Congressman (Federalist-New Hampshire, 1813-1817)
 James M. Wallace – U.S. Congressman (Republican-Pennsylvania, October 10, 1815-March 3, 1821)
 Artemas Ward Jr. (B.A. Harvard 1783) – U.S. Congressman (Federalist-Massachusetts, 1813-1817); Overseer of Harvard Univ. (1810-1844)
 Jonathan Ward – U.S. Congressman (Republican-New York, 1815-1817)
 Daniel Webster (A.B. Dartmouth 1801) – U.S. Congressman (Federalist-New Hampshire, 1813-1817)
 John Whiteside – U.S. Congressman (Republican-Pennsylvania, 1815-1819)
 Jeduthun Wilcox – U.S. Congressman (Federalist-New Hampshire, 1813-1817)

Absent: (7 Federalists, 6 Republicans)

Stevenson Archer (A.B. Princeton 1805) – U.S. Congressman (Republican-Maryland, 1811-1817, 1819-1821)
 William Baylies (A.B. Brown 1795) – U.S. Congressman (Federalist-Massachusetts, 1813-1817, 1833-1835)
 Daniel Chipman (A.B. Dartmouth 1788) – U.S. Congressman (Federalist-Vermont, 1815-1816)
 James W. Clark (A.B. Princeton 1797) – U.S. Congressman (Republican-North Carolina, 1815-1817)
 Cyrus King (B.A. Columbia 1794) – U.S. Congressman (Federalist-Massachusetts, 1813-1817)
 John Noyes (A.B. Dartmouth 1795) – U.S. Congressman (Federalist-Vermont, 1815-1817)
 Thomas Rice (B.A. Harvard 1791) – U.S. Congressman (Federalist-Massachusetts, 1815-1819)
 William Stephens Smith (A.B. Princeton 1774) – U.S. Congressman (Federalist-New York, 1813-1815, 1815-1816)
 Henry Clay – U.S. Congressman (Democratic Republican-Kentucky, 1811-1814, 1815-1821, 1823-1825); Speaker of the House (1811-1814, 1815-1820, 1823-1825)
 William Findley – U.S. Congressman (Republican-Pennsylvania, 1791-1799, 1803-1817)
 Richard M. Johnson – U.S. Congressman (Democratic Republican-Kentucky, 1807-1819, 1829-1837); Vice President of the U.S. (1837-1841)
 Hugh Nelson (A.B. William and Mary 1780) – U.S. Congressman (Republican-Virginia, 1811-1823); U.S. Minister to Spain (1823-1824)
 James Pleasants Jr. (A.B. William and Mary) – U.S. Congressman (Republican-Virginia, 1811-1819); Governor of Virginia (1822-1825)
 Philip Stuart – U.S. Congressman (Federalist-Maryland, 1811-1819)

Note: Congressman Joseph Hopkinson was the Judge of the United States District Court for the Eastern District of Pennsylvania (1828-1842).

Members of Congress who voted “Yea” on bill establishing the Second Bank of the United States in 1816

				
John Taylor A.B. Princeton 1790 U.S. Senator (Democratic Republican-South Carolina, 1810-1816)	David Daggett B.A. Yale 1783 U.S. Senator (Federalist- Connecticut, 1813-1819)	John C. Calhoun B.A. Yale 1804 U.S. Congressman (Democratic Republican- South Carolina, 1811-1817)	Jeremiah Brown Howell A.B. Brown 1789 U.S. Senator (Democratic Republican-Rhode Island, 1811-1817)	William Hunter A.B. Brown 1791 U.S. Senator (Federalist- Rhode Island, 1811-1821)

Members of Congress who voted “Nay” on bill establishing the Second Bank of the United States in 1816

				
Benjamin Tallmadge B.A. Yale 1773 U.S. Congressman (F-Conn., 1801-1817)	Samuel W. Dana B.A. Yale 1775 U.S. Senator (F-Conn., 1810-1821)	Timothy Pickering B.A. Harvard 1763 U.S. Congressman (F-Mass., 1813-1817)	Rufus King B.A. Harvard 1777 U.S. Senator (Federalist-New York, 1789-1796; 1813-1825)	Daniel Webster A.B. Dartmouth 1801 U.S. Congressman (Federalist-New Hampshire, 1813-1817)

JUNE 11, 1832.]

Bank of the United States.—Alexandria Canal Company.

[SENATE.]

details. If the Senate should decide that the principles of his bill were correct, they would then proceed to consider the details which he should be prepared at a proper time to offer. Should the principles presented by his bill be repudiated by the Senate, there would be no necessity for touching the details. He stated that he was engaged in the preparation of some schedules embracing the details of the bill.

The proposition was then received informally in the shape of an amendment to the amendment.

Mr. CLAY expressed his hope that the proposition would be received by the Senate. He was glad to find that the gentleman from Virginia had devoted a portion of his time to this employment. He hoped the gentleman would proceed in his work, prepare his schedules, and furnish them to the Senate, that they might be printed, and, at a proper time, receive the consideration of the Senate. He would refrain from any observations, at this time, on the subject of the principles of the bill. He should be pleased, however, to see, in an authentic and responsible form, the views of every individual Senator, and, were it possible, of every member of the House of Representatives, in order that the whole might be considered together, and that the good might be extracted, and incorporated into a bill.

Mr. WEBSTER hoped that it would be understood that the schedules in preparation were also to be printed, as they might be furnished by the gentleman from Virginia.

The CHAIR replied that it would be so understood.

The amendments were then ordered to be printed; and the bill was then laid on the table.

BANK OF THE UNITED STATES.

The bill to modify and continue the act to incorporate the subscribers to the Bank of the United States was read a third time.

The question being on its passage,

Mr. WEBSTER asked for the yeas and nays on this question, and they were ordered.

Mr. MANGUM then spoke briefly in exposition of the reasons which would compel him to vote against the passage of the bill.

The question was then taken, and decided as follows:

YEAS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins.—28.

NAYS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Tazewell, Troup, Tyler, White.—20.

On his name being called,

Mr. DALLAS said that, being called to vote on the passage of the bill, he felt it to be his duty to make a brief statement to the Senate. He had been returned to the Senate on the list of stockholders, as holding a part of the stock in the bank. As soon as he found that this subject would come in for discussion, he had directed the stock which he held in the institution to be sold. It had been sold, he had received the amount of the sales, and had no longer any interest in the bank.

On his name being called,

Mr. SILSBEE said that he perceived his name on the list of stockholders. He had disposed of his stock before this question came before Congress, and was no longer interested in the institution.

On his name being called,

Mr. WEBSTER said that he had seen his name on the list of the returns; but that the insertion was altogether a mistake of the clerk at the bank in Philadelphia.

The bill was then passed, and sent to the other House for concurrence.

ALEXANDRIA CANAL COMPANY.

On motion of Mr. CHAMBERS, the Senate then proceeded to consider the bill for the benefit of the Alexandria Canal Company.

The question pending being on the motion of Mr. SMITH to insert the word "thirty" after the words "one hundred," increasing the appropriation to 130,000 dollars; and to insert after the provision for an aqueduct, the words "and sixteen feet on each side thereof for a free bridge."

Mr. FORSYTH asked for the yeas and nays on this question.

Some discussion took place on the subject of the amendment, when, on motion of Mr. HAYNE, the question was divided, and the order for the yeas and nays on the first branch, the insertion of the word "thirty," being withdrawn, the motion was negatived.

The question being then on the motion to insert the words in reference to the free bridge,

The amendment was advocated by Mr. FORSYTH and Mr. HAYNE; and opposed by Mr. CLAY, Mr. MILLER, Mr. TYLER, Mr. FOOT, and Mr. CHAMBERS.

The amendment was advocated on the ground that the aqueduct would be injurious to the interests of Georgetown, and destructive to the rights of General Mason in his ferry; and that the only consideration which Georgetown could receive in return was in the form of a free bridge for her benefit.

It was replied that Alexandria had not received her share in the distribution of the funds received by the Government from the sales of public lands within the District, and that she ought to be gratified in this her first application to Congress for aid; that the opposition of Georgetown to the measure was ill-timed and unkind; and that the rights of General Mason in the ferry would be protected. It was further declared that there was no disposition on the part of Alexandria to injure Georgetown, or to interfere with the rights of General Mason; and a pledge was given by Alexandria that she would at any time permit a free bridge to be built on the piers of the aqueduct, and that any injury to the owner of the ferry would be equitably adjusted.

It was then explained by Mr. CLAY, in compliance with a suggestion from the authorities of Georgetown, that there was no opposition intended to the wishes of Alexandria.

Mr. CLAY complimented the gentleman from Virginia [Mr. TYLER] and the gentleman from South Carolina [Mr. MILLER] on their union with him on this question of internal improvement; and expressed a hope that they would extend their new feelings beyond the District. In reference to the protests against the system, he related an anecdote, in substance as follows:

After a certain message of a late President of the United States, about the year 1825, which, with a great deal of eloquence, enforced the propriety of a system of internal improvements, there was a great deal of alarm excited through the ancient dominion of Virginia on the subject of this official document. Some of those gentlemen who participated in this alarm, were deputed to wait on Mr. Jefferson, and to ask his advice how they should act in this emergency, in this melancholy condition to which the commonwealth had been reduced. After they had set forth their complaints, and their desire that he would advise them how to act—"why," said Mr. Jefferson, "I'll tell you." They had talked about protests, resolutions, &c. "I'll tell you," said Mr. Jefferson—"make a protest! make a solemn protest! and then get as much of the money as you can.

The yeas and nays were then ordered on the second

H. of R.]

Bank of the United States—Public Lands.

[JULY 3, 1832.]

Mr. MERCER, to give his views in support of the resolution.

Mr. TAYLOR opposed it, as he did not think the resolution would cure the evils, and he was sure it would lead to many others.

Mr. MITCHELL also opposed the resolution, because, although the present practice might be susceptible of abuse, yet it was seldom abused, &c.

Mr. WILLIAMS, to put an end to the discussion, moved the previous question; which being carried, the question was put on the adoption of the resolution, and was decided in the negative—yeas 81, nays 89.

The bill to modify and renew the charter of the

BANK OF THE UNITED STATES.

Coming up for a third reading, and the question being on the motion of Mr. MERCER to reconsider the vote by which the House had on the previous night refused to allow the previous question to be then put,

Mr. CLAY moved to lay Mr. M.'s motion on the table; but consented to withdraw that motion upon the request of

Mr. TAYLOR, of New York, who made an explanation respecting the manner in which he had voted yesterday, and advocated the reconsideration.

Mr. CLAY now renewed his motion to lay the motion of Mr. MERCER on the table.

After various inquiries in relation to order had been put to the Chair, and answered,

The question on laying the motion to reconsider, &c., on the table, was put and carried—yeas 80, nays 62.

Mr. LEWIS, of Alabama, moved to strike out the seventh section of the bill, and insert in lieu thereof a provision that the bank should not take a higher rate of interest on its loans or discounts than five per cent.

Mr. THOMSON, of Ohio, inquired whether it would be in order for him to move to amend the section before it should be stricken out.

The CHAIR replying in the affirmative,

Mr. THOMSON offered the following as an amendment:

"A tax not exceeding eight per cent. on the dividend annually collected and declared, which tax shall be paid into the treasury of each State in which said bank shall make discounts, either by itself or its branches, in proportion to the amount of dividends collected in each State; which said tax shall be paid on the 4th day of March in each year, during the term of fifteen years; and a statement of the amount so paid by the bank shall be made by the president thereof to the Secretary of the Treasury of the United States on or before the 1st day of April in each of the fifteen years aforesaid."

Mr. DEARBORN thereupon moved the previous question; which was seconded—yeas 94.

The previous question was then put as follows: Shall the main question be now put? and decided by yeas and nays in the affirmative—96 to 82.

The main question was then stated on ordering the bill to be read a third time.

The yeas and nays were demanded, and a call of the House moved by Mr. RENCHER.

The House was thereupon called, when it appeared that 186 members were present. The absentees were then called, the doors closed, and some excuses offered and received.

Mr. TAYLOR moved to suspend further proceedings.

Mr. HOFFMAN demanded the yeas and nays; which were ordered. The motion to suspend the call was then withdrawn, and the Sergeant-at-Arms was sent to require the attendance of the absentees.

After waiting some time,

Mr. TAYLOR renewed his motion to suspend further proceedings on the call.

Mr. HOFFMAN demanded the yeas and nays on the

motion, which were refused; and the House then suspended further proceedings.

The question then recurring on ordering the bill to a third reading, was taken, and decided by yeas and nays as follows:

YEAS.—Messrs. Adams, C. Allen, H. Allen, Allison, Appleton, Armstrong, Arnold, Ashley, Babcock, Banks, N. Barber, J. S. Barbour, Barringer, Barstow, I. C. Bates, Briggs, Bucher, Bullard, Burd, Burges, Choate, Collier, L. Condict, S. Condit, E. Cooke, B. Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, J. Davis, Dearborn, Denny, Dewart, Doddridge, Drayton, Ellsworth, G. Evans, J. Evans, E. Everett, H. Everett, Ford, Gilmore, Grennell, Hodges, Heister, Horn, Hughes, Huntington, Ibric, Ingersoll, Irvin, Isaacs, Jennifer, Kendall, H. King, Kerr, Letcher, Mann, Marshall, Maxwell, McCoy, McDuffie, McKennan, Mercer, Milligan, Newton, Pearce, Pendleton, Pitcher, Potts, Randolph, J. Reed, Root, Russel, Semmes, W. B. Shepard, A. H. Shepherd, Slade, Smith, Southard, Spence, Stanberry, Stephens, Stewart, Storrs, Sutherland, Taylor, P. Thomas, Tompkins, Tracy, Vance, Verplanck, Vinton, Washington, Watmough, E. Whittlesey, F. Whittlesey, E. D. White, Wickliffe, Williams, Young.—106.

NAYS.—Messrs. Adair, Alexander, Anderson, Archer, J. Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Bouck, Bouldin, Branch, Cambreleng, Carr, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Conner, W. R. Davis, Dayan, Doubleday, Felder, Fitzgerald, Foster, Gaither, Gordon, Griffin, T. H. Hall, W. Hall, Hammons, Harper, Hawes, Hawkins, Hoffman, Hogan, Holland, Howard, Hubbard, Jarvis, Cave Johnson, Kavanagh, Kenyon, A. King, J. King, Lamar, Leavitt, Lecompte, Lewis, Lyon, Mardis, Mason, McCarty, McIntire, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Polk, E. C. Reed, Rencher, Roane, Soule, Speight, Standifer, F. Thomas, W. Thompson, J. Thomson, Ward, Wardwell, Wayne, Weeks, Wheeler, C. P. White, Wilde, Worthington.—84.

Mr. BEARDSLEY now moved to suspend the rule to make way for a motion that the bill receive its third reading this day.

Mr. REED, of New York, demanded the yeas and nays on this motion; which being ordered and taken, the rule was suspended—yeas 124, nays 60.

Mr. DEARBORN now moved the previous question; which being seconded by a majority of the House,

Mr. BOULDIN demanded the yeas and nays on the previous question; which being taken, stood—yeas 109, nays 76.

So the previous question was ordered.

The main question was then accordingly put, "Shall this bill pass?" and was decided in the affirmative by yeas and nays as follows—yeas 107, nays 85.

So the bill was passed, and returned to the Senate as amended.

Mr. J. S. BARBOUR having been called out for a few minutes on representative duty, and being thereby absent when the question was put, requested leave to record his vote.

Mr. W. R. DAVIS said he was similarly circumstanced; but leave was refused to both.

PUBLIC LANDS.

The bill from the Senate providing for the distribution of the proceeds of the public lands coming up for consideration,

Mr. WICKLIFFE moved that it be committed to the Committee on Public Lands, and supported his motion by some remarks, to show the propriety of so referring the subject.

Mr. VINTON replied, and opposed the commitment as tending to delay, which must be fatal to the bill.

U.S. Senate Roll Call on the Second Bank of the United States on June 11, 1832

Yea (28 Senators):

Samuel Bell (A.B. Dartmouth 1793) – U.S. Senator (Anti-Jacksonian-New Hampshire, 1823-1835)
Alexander Buckner – U.S. Senator (Jacksonian-Missouri, 1831-1833)
Ezekiel Forman Chambers – U.S. Senator (Anti-Jackson-Maryland, 1826-1834)
Henry Clay – U.S. Senator (Whig-Kentucky, 1806-1807; 1810-1811; 1831-1842; 1849-1852); U.S. Secretary of State (1825-1829)
John M. Clayton (B.A. Yale 1815) – U.S. Senator (Anti-Jacksonian-Delaware, 1829-1836; 1845-1849; 1853-1856)
George M. Dallas (A.B. Princeton 1810) – U.S. Senator (Jacksonian-Pennsylvania, 1831-1833); Vice President of the U.S. (1845-1849)
Thomas Ewing – U.S. Senator (Anti-Jacksonian-Ohio, 1831-1837; 1850-1851); Sec. of the Treasury (1841); Sec. of the Interior (1849-1850)
Samuel Augustus Foot (B.A. Yale 1797) – U.S. Senator (Anti-Jacksonian-Connecticut, 1827-1833)
Theodore Frelinghuysen (A.B. Princeton 1804) – U.S. Senator (Anti-Jacksonian-New Jersey, 1829-1835)
William Hendricks – U.S. Senator (Anti-Jacksonian-Indiana, 1825-1837); Governor of Indiana (1822-1825)
John Holmes (A.B. Brown 1796) – U.S. Senator (Adams Republican-Maine, 1820-1827, 1829-1833)
Josiah Stoddard Johnston – U.S. Senator (Anti-Jacksonian-Louisiana, 1824-1833)
Nehemiah Rice Knight – U.S. Senator (Anti-Jacksonian-Rhode Island, 1821-1841); Governor of Rhode Island (1817-1821)
Arnold Naudain (A.B. Princeton 1806) – U.S. Senator (Anti-Jacksonian-Delaware, 1830-1836)
George Poindexter – U.S. Senator (Anti-Jacksonian-Mississippi, 1830-1835); Governor of Mississippi (1819-1822)
Samuel Prentiss – U.S. Senator (Anti-Jacksonian-Vermont, 1831-1842); Judge of the U.S. District Court of Vermont (1842-1857)
Asher Robbins (B.A. Yale 1782) – U.S. Senator (Whig-Rhode Island, 1825-1839)
John McCracken Robinson – U.S. Senator (Jacksonian-Illinois, 1830-1841)
Benjamin Ruggles – U.S. Senator (Democratic Republican-Ohio, 1815-1833); Voted "Nay" on the Second Bank of the U.S. bill in 1816
Horatio Seymour (B.A. Yale 1797) – U.S. Senator (Anti-Jacksonian-Vermont, 1821-1833)
Nathaniel Silsbee – U.S. Senator (Anti-Jacksonian-Massachusetts, 1826-1829; 1829-1835)
Samuel Smith – U.S. Senator (Jacksonian-Maryland, 1803-1815; 1822-1833); Mayor of Baltimore, Maryland (1835-1838)
Peleg Sprague (B.A. Harvard 1812) – U.S. Senator (Anti-Jacksonian-Maine, 1829-1835)
John Tipton – U.S. Senator (Jacksonian-Indiana, 1832-1839)
Gideon Tomlinson (B.A. Yale 1802) – U.S. Senator (Anti-Jacksonian-Connecticut, 1831-1837)
George Augustus Waggaman – U.S. Senator (Anti-Jacksonian-Louisiana, 1831-1835)
Daniel Webster (A.B. Dartmouth 1801) – U.S. Senator (Whig-Massachusetts, 1827-1841, 1845-1850)
William Wilkins – U.S. Senator (Jacksonian-Pennsylvania, 1831-1834)

Nay (20 Senators):

Thomas Hart Benton – U.S. Senator (Jacksonian-Missouri, 1821-1851)
George M. Bibb (A.B. Princeton 1792) – U.S. Senator (Jacksonian-Kentucky, 1811-1814, 1829-1835)
Bedford Brown – U.S. Senator (Jacksonian-North Carolina, 1829-1840)
Mahlon Dickerson (A.B. Princeton 1789) – U.S. Senator (Jacksonian-New Jersey, 1817-1833)
Charles Edward Dudley – U.S. Senator (Jacksonian-New York, 1829-1833); Mayor of Albany, New York (1821-1824, 1828-1829)
Powhatan Ellis – U.S. Senator (Jacksonian-Mississippi 1825-1826; 1827-1832); U.S. Minister to Mexico (1839-1842)
John Forsyth (A.B. Princeton 1799) – U.S. Senator (Jacksonian-Georgia, 1818-1819, 1829-1834)
Felix Grundy – U.S. Senator (Jacksonian-Tennessee, 1829-1838; 1839-1840); U.S. Attorney General (1838-1839)
Robert Young Hayne – U.S. Senator (Nullifier-South Carolina, March 4, 1823-December 13, 1832); Governor of South Carolina (1832-1834)
Isaac Hill – U.S. Senator (Jacksonian-New Hampshire, 1831-1836); Governor of New Hampshire (1836-1839)
Elias Kent Kane (B.A. Yale 1813) – U.S. Senator (Jacksonian-Illinois, 1825-1835)
William Rufus de Vane King – U.S. Senator (Jacksonian-Alabama, 1819-1844; 1848-1852); U.S. Minister to France (1844-1846)
Willie Person Mangum – U.S. Senator (Jacksonian-North Carolina, 1831-1836; 1840-1853)
William Learned Marcy (A.B. Brown 1808) – U.S. Senator (Jacksonian-New York, 1831-1833); Governor of New York (1833-1838)
Stephen Decatur Miller – U.S. Senator (Nullifier-South Carolina, 1831-1833); Governor of South Carolina (1828-1830)
Gabriel Moore – U.S. Senator (Jacksonian-Alabama, 1831-1837); Governor of Alabama (1829-1831)
Littleton Waller Tazewell – U.S. Senator (Jacksonian-Virginia, December 7, 1824-July 16, 1832); Governor of Virginia (1834-1836)
George M. Troup (A.B. Princeton 1797) – U.S. Senator (Jacksonian-Georgia, 1816-1818, 1829-1833)
John Tyler (A.B. William and Mary 1807) – U.S. Senator (Jacksonian-Virginia, 1827-1836); President of the U.S. (1841-1845)
Hugh Lawson White – U.S. Senator (Jacksonian-Tennessee, 1825-1840)

Note: William Learned Marcy (A.B. Brown 1808) served as U.S. Secretary of War (1845-1849) and U.S. Secretary of State (1853-1857).

Note: Nehemiah Rice Knight served as President of the Roger Williams Bank in Providence, Rhode Island (1817-1854).

U.S. House of Representatives Roll Call on the Second Bank of the United States on July 3, 1832

Yea Votes (106 Yeas):

John Quincy Adams (B.A. Harvard 1787) – U.S. Congressman (Whig-Massachusetts, 1831-1848); President of the U.S. (1825-1829)
Chilton Allan – U.S. Congressman (Anti-Jacksonian-Kentucky, 1831-1837)
Heman Allen – U.S. Congressman (Anti-Jacksonian-Vermont, 1831-1839)
Robert Allison – U.S. Congressman (Anti-Masonic-Pennsylvania, 1831- 1833)
Nathan Appleton – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1831-1833, 1842)
William Armstrong – U.S. Congressman (Anti-Jacksonian-Virginia, 1825-1833)
Thomas D. Arnold – U.S. Congressman (Anti-Jacksonian-Tennessee, 1831-1833, 1841-1843)
William Henry Ashley – U.S. Congressman (Jacksonian-Missouri, October 31, 1831-March 3, 1837)
William Babcock – U.S. Congressman (Anti-Masonic-New York, 1831-1833)
John Banks – U.S. Congressman (Anti-Masonic-Pennsylvania, 1831-1836)
Noyes Barber – U.S. Congressman (Anti-Jacksonian-Connecticut, 1821-1835)
John S. Barbour (B.A. William and Mary 1808) – U.S. Congressman (Jacksonian-Virginia, 1823-1833)
Daniel L. Barringer – U.S. Congressman (Jacksonian-North Carolina, 1826-1835)
Gamaliel Henry Barstow – U.S. Congressman (Anti-Masonic-New York, 1831-1833)
Isaac Chapman Bates (B.A. Yale 1802) – U.S. Congressman (Whig-Massachusetts, 1827-1835)
George Nixon Briggs – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1831-1843); Governor of Massachusetts (1844-1851)
John Conrad Bucher – U.S. Congressman (Jacksonian-Pennsylvania, March 4, 1831-March 3, 1833)
Henry Adams Bullard (B.A. Harvard 1807) – U.S. Congressman (Anti-Jacksonian-Louisiana, 1831-1834; Whig-Louisiana, 1850-1851)
George Burd – U.S. Congressman (Anti-Jacksonian-Pennsylvania, 1831-1835)
Tristram Burges (A.B. Brown 1796) – U.S. Congressman (Anti-Jacksonian-Rhode Island, 1825-1835)
Rufus Choate (A.B. Dartmouth 1819) – U.S. Congressman (Whig-Massachusetts, 1831-1834)
John Allen Collier – U.S. Congressman (Anti-Masonic-New York, March 4, 1831-March 3, 1833)
Lewis Condict (University of Pennsylvania 1794) – U.S. Congressman (Republican-New Jersey, 1811-1817, 1821-1833)
Silas Condit (A.B. Princeton 1795) – U.S. Congressman (Anti-Jacksonian-New Jersey, 1831-1833)
Bates Cooke – U.S. Congressman (Anti-Masonic-New York, March 4, 1831-March 3, 1833)
Eleutheros Cooke – U.S. Congressman (Anti-Jacksonian-Ohio, March 4, 1831-March 3, 1833)
Richard M. Cooper – U.S. Congressman (Anti-Jacksonian-New Jersey, 1829-1833); Pres., State Bank of New Jersey at Camden (1813-42)
Thomas Corwin – U.S. Congressman (Whig-Ohio, 1831-1840); Governor of Ohio (1840-1842); Secretary of the Treasury (1850-1853)
Richard Coulter – U.S. Congressman (Jacksonian-Pennsylvania, March 4, 1827-March 3, 1835)
Robert Craig – U.S. Congressman (Jacksonian-Virginia, 1829-1833, 1835-1841)
Joseph H. Crane – U.S. Congressman (Anti-Jacksonian-Ohio, March 4, 1829-March 3, 1837)
Thomas Hartley Crawford (A.B. Princeton 1804) – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1833)
William Creighton Jr. – U.S. Congressman (Republican-Ohio, May 4, 1813-March 3, 1817, 1827-1828, 1829-1833)
Henry Daniel – U.S. Congressman (Jacksonian-Kentucky, March 4, 1827-March 3, 1833)
John Davis (B.A. Yale 1812) – U.S. Congressman (Whig-Massachusetts, 1825-1834); Governor of Massachusetts (1834-1835, 1841-1843)
Henry Alexander Scammell Dearborn (B.A. William and Mary 1803) – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1831-1833)
Harmar Denny – U.S. Congressman (Anti-Masonic-Pennsylvania, December 15, 1829-March 3, 1837)
Lewis Dewart – U.S. Congressman (Jacksonian-Pennsylvania, March 4, 1831-March 3, 1833)
Philip Doddridge – U.S. Congressman (Anti-Jacksonian-Virginia, March 4, 1829-November 19, 1832)
William Drayton – U.S. Congressman (Jacksonian-South Carolina, May 17, 1825-March 3, 1833)
William Wolcott Ellsworth (B.A. Yale 1810) – U.S. Congressman (Anti-Jacksonian-Connecticut, 1829-1834); Gov. of Connecticut (1838-1842)
George Evans (B.A. Bowdoin College 1815) – U.S. Congressman (Whig-Maine, 1829-1841); U.S. Senator (1841-1847)
Joshua Evans Jr. – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1833)
Edward Everett (B.A. Harvard 1811) – U.S. Congressman (Whig-Massachusetts, 1825-1835)
Horace Everett (A.B. Brown 1797) – U.S. Congressman (Whig-Vermont, 1829-1843)
James Ford – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1833)
John Gilmore – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1833)
George Grennell Jr. (A.B. Dartmouth 1808) – U.S. Congressman (Whig-Massachusetts, 1829-1839)
William Hiester – U.S. Congressman (Anti-Masonic-Pennsylvania, 1831-1837)
James Leonard Hodges – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1827-1833)
Henry Horn – U.S. Congressman (Jacksonian-Pennsylvania, 1831-1833)
Thomas Hurst Hughes – U.S. Congressman (Anti-Jacksonian-New Jersey, 1829- 1833)
Jabez Williams Huntington (B.A. Yale 1806) – U.S. Congressman (Whig-Connecticut, 1829-1834)
Peter Ihrie Jr. – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1833)
Ralph I. Ingersoll (B.A. Yale 1808) – U.S. Congressman (Anti-Jacksonian-Connecticut, 1825-1833); U.S. Minister to Russia (1846-1848)
William W. Irvin – U.S. Congressman (Jacksonian-Ohio, 1829-1833)
Jacob C. Isacks – U.S. Congressman (Jacksonian-Tennessee, 1823-1833)
Daniel Jenifer – U.S. Congressman (Anti-Jacksonian-Maryland, 1831-1833, 1835-1841); U.S. Minister to Austria (1841- 1845)
Joseph G. Kendall (B.A. Harvard 1810) – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1829-1833)
John L. Kerr – U.S. Congressman (Whig-Maryland, 1825-1829, 1831-1833); U.S. Senator (Maryland, 1841-1843)
Henry King – U.S. Congressman (Jacksonian-Pennsylvania, March 4, 1831-March 3, 1835)
Robert Perkins Letcher – U.S. Congressman (Anti-Jacksonian-Kentucky, 1823-1833, 1834-1835); Governor of Kentucky (1840-1844)
Joel Keith Mann – U.S. Congressman (Jacksonian-Pennsylvania, 1831-1835)
Thomas Alexander Marshall (B.A. Yale 1815) – U.S. Congressman (Anti-Jacksonian-Kentucky, 1831-1835)
Lewis Maxwell – U.S. Congressman (Anti-Jacksonian-Virginia, 1827-1833)
William McCoy – U.S. Congressman (Jacksonian-Virginia, 1811-1833)
George McDuffie – U.S. Congressman (Democrat-South Carolina, 1821-1834); Governor of South Carolina (1834-1836)
Thomas McKean Thompson McKennan – U.S. Congressman (Anti-Masonic-Pennsylvania, 1831-1839, 1842-1843); Sec. of the Interior (1850)
Charles Fenton Mercer (A.B. Princeton 1797) – U.S. Congressman (Whig-Virginia, 1817-1839)

John Jones Milligan – U.S. Congressman (Anti-Jacksonian-Delaware, 1831-1839)
 Thomas Newton Jr. – U.S. Congressman (Republican-Virginia, 1801-1829, 1829-1830, 1831-1833)
 Dutee Jerauld Pearce (A.B. Brown 1808) – U.S. Congressman (Anti-Jacksonian-Rhode Island, 1825-1837)
 Edmund H. Pendleton (B.A. Columbia 1805) – U.S. Congressman (Anti-Jacksonian-New York, 1831-1833)
 Nathaniel Pitcher – U.S. Congressman (Jacksonian-New York, 1819-1823, 1831-1833)
 David Potts Jr. – U.S. Congressman (Anti-Masonic-Pennsylvania, 1831-1839)
 James Fitz Randolph – U.S. Congressman (Anti-Jacksonian-New Jersey, 1828-1833); United States collector of internal revenue (1815-1846)
 John Reed (A.B. Brown 1803) – U.S. Congressman (Federalist/Whig-Massachusetts, 1813-1817, 1821-1841)
 Erastus Root (A.B. Dartmouth 1793) – U.S. Congressman (Jacksonian-New York, 1803-1805, 1809-1811, 1815-1817, 1831-1833)
 William Russell – U.S. Congressman (Jacksonian-Ohio, 1827-1833, 1841-1843)
 Benedict Joseph Semmes – U.S. Congressman (Anti-Jacksonian-Maryland, 1829-1833)
 William Biddle Shepard – U.S. Congressman (Anti-Jacksonian-North Carolina, 1829-1837)
 Augustine Henry Shepperd – U.S. Congressman (Jacksonian-North Carolina, 1827-1839, 1841-1843, 1847-1851)
 William Slade – U.S. Congressman (Anti-Masonic-Vermont, November 1, 1831-March 3, 1843); Governor of Vermont (1844-1846)
 Samuel A. Smith – U.S. Congressman (Jacksonian-Pennsylvania, October 13, 1829-March 3, 1833)
 Isaac Southard – U.S. Congressman (Anti-Jacksonian-New Jersey, 1831-1833)
 John Selby Spence – U.S. Congressman (Anti-Jacksonian-Maryland, 1823-1825, 1831-1833); U.S. Senator (Maryland, 1836-1840)
 William Stanbery – U.S. Congressman (Anti-Jacksonian-Ohio, October 9, 1827-March 3, 1833)
 Philander Stephens – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1833)
 Andrew Stewart – U.S. Congressman (Anti-Masonic-Pennsylvania, 1821-1829, 1831-1835, 1843-1849)
 William L. Storrs (B.A. Yale 1814) – U.S. Congressman (Anti-Jacksonian-Connecticut, 1829-1833, 1839-1840)
 Joel Barlow Sutherland (B.A. University of Pennsylvania 1812) – U.S. Congressman (Jacksonian-Pennsylvania, 1827-1837)
 John W. Taylor (A.B. Union College 1803) – U.S. Congressman (Republican-New York, 1813-1833)
 Philemon Thomas – U.S. Congressman (Louisiana, 1831-1835)
 Christopher Tompkins – U.S. Congressman (Anti-Jacksonian-Kentucky, 1831-1835)
 Phineas Lyman Tracy (B.A. Yale 1806) – U.S. Congressman (Anti-Masonic-New York, 1827-1833)
 Joseph Vance – U.S. Congressman (Anti-Jacksonian-Ohio, 1821-1835, 1843-1847); Governor of Ohio (1836-1838)
 Gulian C. Verplanck (B.A. Columbia 1801) – U.S. Congressman (Jacksonian-New York 1825-1833)
 Samuel Finley Vinton (B.A. Williams College 1814) – U.S. Congressman (Whig-Ohio, 1823-1837, 1843-1851)
 George Corbin Washington – U.S. Congressman (Anti-Jacksonian-Maryland, 1827-1833, 1835-1837)
 John Goddard Watmough – U.S. Congressman (Anti-Jacksonian-Pennsylvania, 1831-1835)
 Edward Douglass White – U.S. Congressman (Whig-Louisiana, 1829-1834, 1839-1843); Governor of Louisiana (1834-1838)
 Elisha Whittlesey – U.S. Congressman (Whig-Ohio, 1823-1838); First Comptroller of the Treasury (1849-1857, 1861-1863)
 Frederick Whittlesey (B.A. Yale 1818) – U.S. Congressman (Anti-Masonic-New York, 1831-1835)
 Charles A. Wickliffe – U.S. Congressman (Jacksonian-Kentucky, 1823-1833, 1861-1863); Postmaster General of the U.S. (1841-1845)
 Lewis Williams (B.A. Univ. of North Carolina 1808) – U.S. Congressman (Republican-North Carolina, 1815-1842)
 Ebenezer Young (B.A. Yale 1806) – U.S. Congressman (Connecticut, 1829-1835)

Nay Votes (82 Nays, 2 Missing):

John Adair – U.S. Congressman (Jacksonian-Kentucky, 1831-1833); Governor of Kentucky (1820-1824)
 Mark Alexander (B.A. University of North Carolina 1811) – U.S. Congressman (Jacksonian-Virginia, 1819-1833)
 John Anderson (B.A. Bowdoin College 1813) – U.S. Congressman (Jacksonian-Maine, 1825-1833)
 William S. Archer (B.A. William and Mary 1806) – U.S. Congressman (Whig-Virginia, 1820-1835); U.S. Senator (Whig-Virginia, 1841-1847)
 James Bates – U.S. Congressman (Jacksonian-Maine, 1831-1833)
 Samuel Beardsley – U.S. Congressman (Jacksonian-New York, 1831-1836, 1843-1844); Attorney General of New York (1836-1838)
 John Bell – U.S. Congressman (Jacksonian-Tennessee, 1827-1841); U.S. Senator (Whig-Tennessee, 1847-1859)
 John T. Bergen – U.S. Congressman (Jacksonian-New York, 1831-1833)
 Lauchlin Bethune – U.S. Congressman (Jacksonian-North Carolina, March 4, 1831-March 3, 1833)
 James Blair – U.S. Congressman (Jacksonian-South Carolina, 1821-1822, 1829-1834)
 John Blair – U.S. Congressman (Jacksonian-Tennessee, 1823-1835)
 Joseph Bouck – U.S. Congressman (Jacksonian-New York, March 4, 1831-March 3, 1833)
 Thomas Tyler Bouldin – U.S. Congressman (Jacksonian-Virginia, 1829-1833, 1833-1834)
 John Branch – U.S. Congressman (Jacksonian-North Carolina, 1831-1833); U.S. Senator (1823-1829); Secretary of the Navy (1829-1831)
 Churchill C. Cambreleng – U.S. Congressman (Jacksonian-New York, 1821-1839); U.S. Minister to Russia (1840-1841)
 John Carr – U.S. Congressman (Jacksonian-Indiana, 1831-1837, 1839-1841)
 Thomas Chandler – U.S. Congressman (Jacksonian-New Hampshire, 1829-1833)
 Joseph William Chinn (B.A. Union College 1819) – U.S. Congressman (Jacksonian-Virginia, 1831-1835)
 Nathaniel Herbert Claiborne – U.S. Congressman (Jacksonian-Virginia, 1825-1837)
 Clement Comer Clay – U.S. Congressman (Democrat-Alabama, 1829-1835); Governor of Alabama (1836-1837)
 Augustin Smith Clayton – U.S. Congressman (Jacksonian-Georgia, January 21, 1832-March 3, 1835)
 Richard Coke Jr. – U.S. Congressman (Jacksonian-Virginia, 1829-1833)
 Henry William Connor – U.S. Congressman (Jacksonian-North Carolina, 1821-1841)
 Warren Ransom Davis – U.S. Congressman (Nullifier-South Carolina, 1827-1835)
 Charles Dayan – U.S. Congressman (Jacksonian-New York, 1831-1833)
 Ulysses Freeman Doubleday – U.S. Congressman (Jacksonian-New York, 1831-1833, 1835-1837)
 John Myers Felder (B.A. Yale 1804) – U.S. Congressman (Democrat-South Carolina, 1831-1835)
 William Fitzgerald – U.S. Congressman (Jacksonian-Tennessee, 1831-1833)
 Thomas Flournoy Foster – U.S. Congressman (Jacksonian-Georgia, 1829-1835, 1841-1843)
 Nathan Gaither – U.S. Congressman (Jacksonian-Kentucky, 1829-1833)
 William Fitzhugh Gordon – U.S. Congressman (Jacksonian-Virginia, January 25, 1830-March 3, 1835)
 John King Griffin – U.S. Congressman (Nullifier-South Carolina, 1831-1841)
 Thomas H. Hall – U.S. Congressman (Jacksonian-North Carolina, 1817-1825, 1827-1835)

William Hall – U.S. Congressman (Jacksonian-Tennessee, March 4, 1831-March 3, 1833); Governor of Tennessee (1829)
 Joseph Hammons – U.S. Congressman (Jacksonian-New Hampshire, March 4, 1829-March 3, 1833)
 Joseph Morrill Harper – U.S. Congressman (Jacksonian-New Hampshire, March 4, 1831-March 3, 1835)
 Albert Gallatin Hawes – U.S. Congressman (Jacksonian-Kentucky, March 4, 1831-March 3, 1837)
 Micajah Thomas Hawkins – U.S. Congressman (Jacksonian-North Carolina, December 15, 1831-March 3, 1841)
 Michael Hoffman – U.S. Congressman (Jacksonian-New York, 1825-1833)
 William Hogan (B.A. Columbia 1811) – U.S. Congressman (Jacksonian-New York, 1831-1833)
 Cornelius Holland – U.S. Congressman (Jacksonian-Maine, December 6, 1830-March 3, 1833)
 Benjamin C. Howard (A.B. Princeton 1809) – U.S. Congressman (Jacksonian-Maryland, 1829-1833, 1835-1839)
 Henry Hubbard (A.B. Dartmouth 1803) – U.S. Congressman (Jacksonian-New Hampshire, 1829-1835)
 Leonard Jarvis (B.A. Harvard 1800) – U.S. Congressman (Jacksonian-Maine, 1829-1837)
 Cave Johnson – U.S. Congressman (Jacksonian-Tennessee, 1829-1837, 1839-1845); Postmaster General of the United States (1845-1849)
 Edward Kavanagh – U.S. Congressman (Jacksonian-Maine, 1831-1835); U.S. Chargé d'Affaires to Portugal (1835-1841)
 William Kennon Sr. – U.S. Congressman (Jacksonian-Ohio, 1829-1833, 1835-1837)
 Adam King – U.S. Congressman (Jacksonian-Pennsylvania, 1827-1833)
 John King – U.S. Congressman (Jacksonian-New York, March 4, 1831-March 3, 1833)
 Henry Graybill Lamar – U.S. Congressman (Jacksonian-Georgia, December 7, 1829-March 3, 1833)
 Humphrey Howe Leavitt – U.S. Congressman (Jacksonian-Ohio, 1830-1834); Judge of U.S. District Court for the District of Ohio (1834-1871)
 Joseph Lecompte – U.S. Congressman (Jacksonian-Kentucky, (1825-1833)
 Dixon Hall Lewis – U.S. Congressman (Democrat-Alabama, 1829-1844); U.S. Senator (Alabama, 1844-1848)
 Chittenden Lyon – U.S. Congressman (Jacksonian-Kentucky, 1827-1835)
 Samuel Wright Mardis – U.S. Congressman (Jacksonian-Alabama, March 4, 1831-March 3, 1835)
 John Young Mason – U.S. Congressman (Jacksonian-Virginia, 1831-1837); Secretary of the Navy (1844-1845, 1846-1849)
 Johnathan McCarty – U.S. Congressman (Jacksonian-Indiana, 1831-1837)
 Rufus McIntire (A.B. Dartmouth 1809) – U.S. Congressman (Jacksonian-Maine, 1827-1835)
 James Iver McKay – U.S. Congressman (Jacksonian-North Carolina, March 4, 1831-March 3, 1849)
 Thomas R. Mitchell (B.A. Harvard 1802) – U.S. Congressman (Republican/Jacksonian-South Carolina, 1821-1823, 1825-1829, 1831-1833)
 Daniel Newnan – U.S. Congressman (Jacksonian-Georgia, March 4, 1831-March 3, 1833)
 William Thompson Nuckolls – U.S. Congressman (Jacksonian-South Carolina, 1827-1833)
 John Mercer Patton – U.S. Congressman (Jacksonian-Virginia, November 25, 1830-April 7, 1838)
 Job Pierson (B.A. Williams College 1811) – U.S. Congressman (Jacksonian-New York, 1831-1835)
 James K. Polk – U.S. Congressman (Jacksonian-Tennessee, 1825-1839); President of the United States (1845-1849)
 Edward C. Reed (A.B. Dartmouth 1812) – U.S. Congressman (Jacksonian-New York, 1831-1833)
 Abraham Rencher – U.S. Congressman (Jacksonian-North Carolina, 1829-1839, 1841-1843); U.S. Minister to Portugal (1843-1847)
 John Jones Roane – U.S. Congressman (Jacksonian-Virginia, March 4, 1831-March 3, 1833)
 Nathan Soule – U.S. Congressman (Jacksonian-New York, 1831-1833)
 Jesse Speight – U.S. Congressman (Democrat-North Carolina, 1829-1837); U.S. Senator (Democrat-Mississippi, 1845-1847)
 James Israel Standifer – U.S. Congressman (Jacksonian-Tennessee, 1823-1825, 1829-1837)
 Francis Thomas – U.S. Congressman (Jackson-Maryland, 1831-1841, 1861-1869); Governor of Maryland (1841-1844)
 Wiley Thompson – U.S. Congressman (Jacksonian-Georgia, March 4, 1821-March 3, 1833)
 John Thomson – U.S. Congressman (Jacksonian-Ohio, 1825-1827, 1829-1837)
 Aaron Ward – U.S. Congressman (Jacksonian-New York, 1825-1829, 1831-1837, 1841-1843)
 Daniel Wardwell (A.B. Brown 1811) – U.S. Congressman (Jacksonian-New York, 1831-1837)
 James Moore Wayne (A.B. Princeton 1808) – U.S. Congressman (Jacksonian-Georgia, 1829-1835)
 John Wingate Weeks – U.S. Congressman (Jacksonian-New Hampshire, 1829-1833)
 Grattan Henry Wheeler – U.S. Congressman (Anti-Masonic-New York, 1831-1833)
 Campbell Patrick White – U.S. Congressman (Jacksonian-New York, 1829-1835)
 Richard Henry Wilde – U.S. Congressman (Republican-Georgia, 1815-1817, 1825, 1827-1835)
 John T.H. Worthington – U.S. Congressman (Jacksonian-Maryland, 1831-1833, 1837-1841)

Absent:

William G. Angel – U.S. Congressman (Jacksonian-New York, 1825-1827, 1829-1833)
 Ratliff Boon – U.S. Congressman (Jacksonian-Indiana, 1825-1827, 1829-1839)
 John Brodhead – U.S. Congressman (Jacksonian-New Hampshire, 1829-1833)
 John Curtis Brodhead – U.S. Congressman (Jacksonian-New York, 1831-1833, 1837-1839)
 Samuel Price Carson – U.S. Congressman (Jacksonian-North Carolina, 1825-1833); Secretary of State of the Republic of Texas (1836-1838)
 Joseph Duncan – U.S. Congressman (Jacksonian-Illinois, 1827-1834); Governor of Illinois (1834-1838)
 Freeborn Garrettson Jewett – U.S. Congressman (Jacksonian-New York, 1831-1833)
 Gerrit Yates Lansing (B.A. Union College 1800) – U.S. Congressman (Jacksonian-New York, 1831-1837)
 James Lent – U.S. Congressman (Jacksonian-New York, March 4, 1829-February 22, 1833)
 Robert McCoy – U.S. Congressman (Jacksonian-Pennsylvania, November 22, 1831-March 3, 1833)
 Henry Augustus Philip Muhlenberg – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1838); U.S. Minister to Austria (1838-1840)
 Jeremiah Nelson (A.B. Dartmouth 1790) – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1805-1807, 1815-1825, 1831-1833)
 Franklin E. Plummer – U.S. Congressman (Jacksonian-Mississippi, March 4, 1831-March 3, 1835)
 Andrew Stevenson – U.S. Congressman (Jacksonian-Virginia, 1821-1834); Speaker of the House of Representatives (1827-1834); U.S. Minister to Great Britain (1836-1841)
 Samuel J. Wilkin (A.B. Princeton 1812) – U.S. Congressman (Anti-Jacksonian-New York, 1831-1833)

Note: An attempt was made by Morgan A. Heard to assassinate U.S. Congressman Thomas D. Arnold (Anti-Jacksonian-Tennessee) on May 14, 1832, as he descended the west steps of the U.S. Capitol in Washington, D.C., U.S.A.

Note: U.S. Congressman Charles Clement Johnston (Jacksonian-Virginia) died in office on June 17, 1832.

Note: U.S. Congressman George Edward Mitchell (Jacksonian-Maryland) died in office in Washington, D.C. on June 28, 1832.

Ivy League Politicians and Their Vote on the Second Bank of the United States in 1832

Yea Votes:

U.S. Senators:

John M. Clayton (B.A. Yale 1815) – U.S. Senator (Anti-Jacksonian-Delaware, 1829-1836; Whig-Delaware, 1845-1849; 1853-1856)
Samuel Augustus Foot (B.A. Yale 1797) – U.S. Senator (Anti-Jacksonian-Connecticut, 1827-1833)
Asher Robbins (B.A. Yale 1782) – U.S. Senator (Whig-Rhode Island, 1825-1839)
Horatio Seymour (B.A. Yale 1797) – U.S. Senator (Anti-Jacksonian-Vermont, 1821-1833)
Gideon Tomlinson (B.A. Yale 1802) – U.S. Senator (Anti-Jacksonian-Connecticut, 1831-1837)
Peleg Sprague (B.A. Harvard 1812) – U.S. Senator (Anti-Jacksonian-Maine, 1829-1835)
Theodore Frelinghuysen (A.B. Princeton 1804) – U.S. Senator (Anti-Jacksonian-New Jersey, 1829-1835)
Arnold Naudain (A.B. Princeton 1806) – U.S. Senator (Anti-Jacksonian-Delaware, 1830-1836)
George M. Dallas (A.B. Princeton 1810) – U.S. Senator (Jacksonian-Pennsylvania, 1831-1833)
Samuel Bell (A.B. Dartmouth 1793) – U.S. Senator (Anti-Jacksonian-New Hampshire, 1823-1835)
Daniel Webster (A.B. Dartmouth 1801) – U.S. Senator (Whig-Massachusetts, 1827-1841, 1845-1850)
John Holmes (A.B. Brown 1796) – U.S. Senator (Adams Republican-Maine, 1820-1827, 1829-1833)

Members of the U.S. House of Representatives:

Isaac Chapman Bates (B.A. Yale 1802) – U.S. Congressman (Whig-Massachusetts, 1827-1835)
John Davis (B.A. Yale 1812) – U.S. Congressman (Whig-Massachusetts, 1825-1834)
William Wolcott Ellsworth (B.A. Yale 1810) – U.S. Congressman (Anti-Jacksonian-Connecticut, 1829-1834)
Jabez Williams Huntington (B.A. Yale 1806) – U.S. Congressman (Whig-Connecticut, 1829-1834)
Ralph I. Ingersoll (B.A. Yale 1808) – U.S. Congressman (Democrat-Connecticut, 1825-1833)
Thomas Alexander Marshall (B.A. Yale 1815) – U.S. Congressman (Anti-Jacksonian-Kentucky, 1831-1835)
William L. Storrs (B.A. Yale 1814) – U.S. Congressman (Anti-Jacksonian-Connecticut, 1829-1833, 1839-1840)
Phineas Lyman Tracy (B.A. Yale 1806) – U.S. Congressman (Anti-Masonic-New York, 1827-1833)
Frederick Whittlesey (B.A. Yale 1818) – U.S. Congressman (Anti-Masonic-New York, 1831-1835)
Ebenezer Young (B.A. Yale 1806) – U.S. Congressman (Connecticut, 1829-1835)
John Quincy Adams (B.A. Harvard 1787) – U.S. Congressman (Whig-Massachusetts, 1831-1848); President of the U.S. (1825-1829)
Henry Adams Bullard (B.A. Harvard 1807) – U.S. Congressman (Anti-Jacksonian-Louisiana, 1831-1834; Whig-Louisiana, 1850-1851)
Edward Everett (B.A. Harvard 1811) – U.S. Congressman (Whig-Massachusetts, 1825-1835)
Joseph G. Kendall (B.A. Harvard 1810) – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1829-1833)
Silas Condit (A.B. Princeton 1795) – U.S. Congressman (Anti-Jacksonian-New Jersey, 1831-1833)
Thomas Hartley Crawford (A.B. Princeton 1804) – U.S. Congressman (Jacksonian-Pennsylvania, 1829-1833)
Charles Fenton Mercer (A.B. Princeton 1797) – U.S. Congressman (Whig-Virginia, 1817-1839)
Rufus Choate (A.B. Dartmouth 1819) – U.S. Congressman (Whig-Massachusetts, 1831-1834)
George Grennell Jr. (A.B. Dartmouth 1808) – U.S. Congressman (Whig-Massachusetts, 1829-1839)
Erastus Root (A.B. Dartmouth 1793) – U.S. Congressman (Jacksonian-New York, 1803-1805, 1809-1811, 1815-1817, 1831-1833)
Tristram Burges (A.B. Brown 1796) – U.S. Congressman (Anti-Jacksonian-Rhode Island, 1825-1835)
Horace Everett (A.B. Brown 1797) – U.S. Congressman (Whig-Vermont, 1829-1843)
Dutee Jerauld Pearce (A.B. Brown 1808) – U.S. Congressman (Anti-Jacksonian-Rhode Island, 1825-1837)
John Reed (A.B. Brown 1803) – U.S. Congressman (Federalist/Whig-Massachusetts, 1813-1817, 1821-1841)
Edmund H. Pendleton (B.A. Columbia 1805) – U.S. Congressman (Anti-Jacksonian-New York, 1831-1833)
Gulian C. Verplanck (B.A. Columbia 1801) – U.S. Congressman (Jacksonian-New York 1825-1833)
Joel Barlow Sutherland (B.A. University of Pennsylvania 1812) – U.S. Congressman (Jacksonian-Pennsylvania, 1827-1837)

Nay Votes:

U.S. Senators:

Elias Kent Kane (B.A. Yale 1813) – U.S. Senator (Jacksonian-Illinois, 1825-1835)
William Learned Marcy (A.B. Brown 1808) – U.S. Senator (Jacksonian-New York, 1831-1833)
George M. Bibb (A.B. Princeton 1792) – U.S. Senator (Jacksonian-Kentucky, 1811-1814, 1829-1835)
Mahlon Dickerson (A.B. Princeton 1789) – U.S. Senator (Jacksonian-New Jersey, 1817-1833)
John Forsyth (A.B. Princeton 1799) – U.S. Senator (Jacksonian-Georgia, 1818-1819, 1829-1834)
George M. Troup (A.B. Princeton 1797) – U.S. Senator (Jacksonian-Georgia, 1816-1818, 1829-1833)



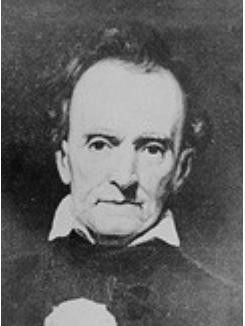


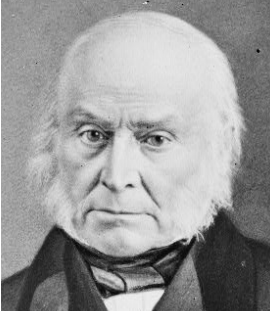


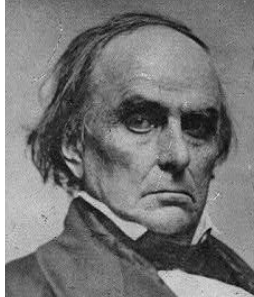




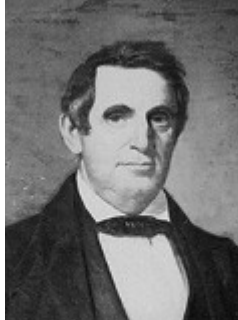

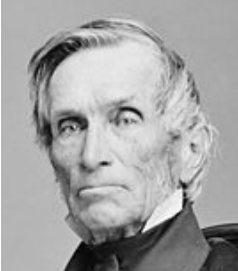

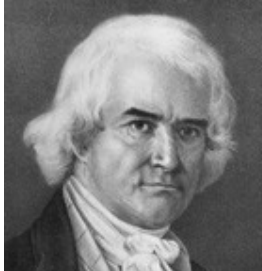


Members of the U.S. House of Representatives:

John Myers Felder (B.A. Yale 1804) – U.S. Congressman (Democrat-South Carolina, 1831-1835)
Leonard Jarvis (B.A. Harvard 1800) – U.S. Congressman (Jacksonian-Maine, 1829-1837)
Thomas R. Mitchell (B.A. Harvard 1802) – U.S. Congressman (Republican/Jacksonian-South Carolina, 1821-1823, 1825-1829, 1831-1833)
Benjamin C. Howard (A.B. Princeton 1809) – U.S. Congressman (Jacksonian/Democrat-Maryland, 1829-1833, 1835-1839)
James Moore Wayne (A.B. Princeton 1808) – U.S. Congressman (Jacksonian-Georgia, 1829-1835)
Henry Hubbard (A.B. Dartmouth 1803) – U.S. Congressman (Jacksonian-New Hampshire, 1829-1835)
Rufus McIntire (A.B. Dartmouth 1809) – U.S. Congressman (Jacksonian-Maine, 1827-1835)
Edward C. Reed (A.B. Dartmouth 1812) – U.S. Congressman (Jacksonian-New York, 1831-1833)
Daniel Wardwell (A.B. Brown 1811) – U.S. Congressman (Jacksonian-New York, 1831-1837)
William Hogan (B.A. Columbia 1811) – U.S. Congressman (Jacksonian-New York, 1831-1833)

Absent:

Robert Woodward Barnwell (B.A. Harvard 1821) – U.S. Congressman (Democrat-South Carolina, 1829-1833)
Jeremiah Nelson (A.B. Dartmouth 1790) – U.S. Congressman (Anti-Jacksonian-Massachusetts, 1805-1807, 1815-1825, 1831-1833)
Samuel J. Wilkin (A.B. Princeton 1812) – U.S. Congressman (Anti-Jacksonian-New York, 1831-1833)

Ivy League Politicians who voted "Yea" on the Second Bank of the United States in 1832

 <p>John M. Clayton B.A. Yale 1815 U.S. Senator (AJ-Delaware, 1829-1836; W-Delaware, 1845-1849; O-Delaware 1853-1856)</p>	 <p>Samuel Augustus Foot B.A. Yale 1797 U.S. Senator (AJ-Connecticut, 1827-1833)</p>	 <p>Asher Robbins B.A. Yale 1782 U.S. Senator (Whig-Rhode Island, 1825-1839)</p>	 <p>Horatio Seymour B.A. Yale 1797 U.S. Senator (AJ-Vermont, 1821-1833)</p>	 <p>Gideon Tomlinson B.A. Yale 1802 U.S. Senator (AJ-Connecticut, 1831-1837)</p>
 <p>John Quincy Adams B.A. Harvard 1787 U.S. Congressman (Whig-Mass., 1831-1848); Overseer of Harvard University (1830-1848)</p>	 <p>Edward Everett B.A. Harvard 1811 Ph.D. Gottingen 1817 U.S. Congressman (Whig-Massachusetts, 1825-1835)</p>	 <p>Peleg Sprague B.A. Harvard 1812 U.S. Senator (Anti-Jacksonian-Maine, 1829-1835)</p>	 <p>Daniel Webster A.B. Dartmouth 1801 U.S. Senator (Whig-Mass., 1827-1841, 1845-1850)</p>	 <p>Samuel Bell A.B. Dartmouth 1793 U.S. Senator (Anti-Jacksonian-New Hampshire, 1823-1835)</p>
 <p>Isaac Chapman Bates B.A. Yale 1802 U.S. Congressman (Whig-Massachusetts, 1827-1835)</p>	 <p>John Davis B.A. Yale 1812 U.S. Congressman (Whig-Massachusetts, 1825-1834)</p>	 <p>William Wolcott Ellsworth B.A. Yale 1810 U.S. Congressman (Anti-Jacksonian-Connecticut, 1829-1834)</p>	 <p>Jabez W. Huntington B.A. Yale 1806 U.S. Congressman (Whig-Connecticut, 1829-1834)</p>	 <p>Rufus Choate A.B. Dartmouth 1819 U.S. Congressman (Whig-Massachusetts, 1831-1834)</p>
 <p>Theodore Frelinghuysen A.B. Princeton 1804 U.S. Senator (Anti-Jacksonian-New Jersey, 1829-1835)</p>	 <p>Arnold Naudain A.B. Princeton 1806 U.S. Senator (Anti-Jacksonian-Delaware, 1830-1836)</p>	 <p>George M. Dallas A.B. Princeton 1810 U.S. Senator (Jacksonian-Pennsylvania, 1831-1833)</p>	 <p>John Holmes A.B. Brown 1796 U.S. Senator (Adams Republican-Maine, 1820-1827, 1829-1833)</p>	 <p>Gulian C. Verplanck B.A. Columbia 1801 U.S. Congressman (Jacksonian-New York 1825-1833)</p>

President Jackson's Veto Message Regarding the Second Bank of the United States

WASHINGTON, July 10, 1832.

To the Senate.

The bill "to modify and continue" the act entitled "An act to incorporate the subscribers to the Bank of the United States" was presented to me on the 4th July instant. Having considered it with that solemn regard to the principles of the Constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

A bank of the United States is in many respects convenient for the Government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the States, and dangerous to the liberties of the people, I felt it my duty at an early period of my Administration to call the attention of Congress to the practicability of organizing an institution combining all its advantages and obviating these objections. I sincerely regret that in the act before me I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the Constitution of our country.

The present corporate body, denominated the president, directors, and company of the Bank of the United States, will have existed at the time this act is intended to take effect twenty years. It enjoys an exclusive privilege of banking under the authority of the General Government, a monopoly of its favor and support, and, as a necessary consequence, almost a monopoly of the foreign and domestic exchange. The powers, privileges, and favors bestowed upon it in the original charter, by increasing the value of the stock far above its par value, operated as a gratuity of many millions to the stockholders.

An apology may be found for the failure to guard against this result in the consideration that the effect of the original act of incorporation could not be certainly foreseen at the time of its passage. The act before me proposes another gratuity to the holders of the same stock, and in many cases to the same men, of at least seven millions more. This donation finds no apology in any uncertainty as to the effect of the act. On all hands it is conceded that its passage will increase at least so or 30 per cent more the market price of the stock, subject to the payment of the annuity of \$200,000 per year secured by the act, thus adding in a moment one-fourth to its par value. It is not our own citizens only who are to receive the bounty of our Government. More than eight millions of the stock of this bank are held by foreigners. By this act the American Republic proposes virtually to make them a present of some millions of dollars. For these gratuities to foreigners and to some of our own opulent citizens the act secures no equivalent whatever. They are the certain gains of the present stockholders under the operation of this act, after making full allowance for the payment of the bonus.

Every monopoly and all exclusive privileges are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank must come directly or indirectly out of the earnings of the American people. It is due to them, therefore, if their Government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of 50 per cent, and command in market at least \$42,000,000, subject to the payment of the present bonus. The present value of the monopoly, therefore, is \$17,000,000, and this the act proposes to sell for three millions, payable in fifteen annual installments of \$200,000 each.

It is not conceivable how the present stockholders can have any claim to the special favor of the Government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the Government sell out the whole stock and thus secure to the people the full market value of the privileges granted? Why should not Congress create and sell twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act and putting the premium upon the sales into the Treasury?

But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right not only to the favor but to the bounty of Government. It appears that more than a fourth part of the stock is held by foreigners and the residue is held by a few hundred of our own citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from competition in the purchase of this monopoly and dispose of it for many millions less than it is worth. This seems the less excusable because some of our citizens not now stockholders petitioned that the door of competition might be opened, and offered to take a charter on terms much more favorable to the Government and country.

But this proposition, although made by men whose aggregate wealth is believed to be equal to all the private stock in the existing bank, has been set aside, and the bounty of our Government is proposed to be again bestowed on the few who have been fortunate enough to secure the stock and at this moment wield the power of the existing institution. I can not perceive the justice or policy of this course. If our Government must sell monopolies, it would seem to be its duty to take nothing less than their full value, and if gratuities must be made once in fifteen or twenty years let them not be bestowed on the subjects of a foreign government nor upon a designated and favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow-citizens, and let each in his turn enjoy an opportunity to profit by our bounty. In the bearings of the act before me upon these points I find ample reasons why it should not become a law.

It has been urged as an argument in favor of rechartering the present bank that the calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns is ample, and if it has been well managed its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own, and it would furnish a reason against renewing a power which has been so obviously abused. But will there ever be a time when this reason will be less powerful? To acknowledge its force is

to admit that the bank ought to be perpetual, and as a consequence the present stockholders and those inheriting their rights as successors be established a privileged order, clothed both with great political power and enjoying immense pecuniary advantages from their connection with the Government.

The modifications of the existing charter proposed by this act are not such, in my view, as make it consistent with the rights of the States or the liberties of the people. The qualification of the right of the bank to hold real estate, the limitation of its power to establish branches, and the power reserved to Congress to forbid the circulation of small notes are restrictions comparatively of little value or importance. All the objectionable principles of the existing corporation, and most of its odious features, are retained without alleviation.

The fourth section provides "that the notes or bills of the said corporation, although the same be, on the faces thereof, respectively made payable at one place only, shall nevertheless be received by the said corporation at the bank or at any of the offices of discount and deposit thereof if tendered in liquidation or payment of any balance or balances due to said corporation or to such office of discount and deposit from any other incorporated bank." This provision secures to the State banks a legal privilege in the Bank of the United States which is withheld from all private citizens. If a State bank in Philadelphia owe the Bank of the United States and have notes issued by the St. Louis branch, it can pay the debt with those notes, but if a merchant, mechanic, or other private citizen be in like circumstances he can not by law pay his debt with those notes, but must sell them at a discount or send them to St. Louis to be cashed. This boon conceded to the State banks, though not unjust in itself, is most odious because it does not measure out equal justice to the high and the low, the rich and the poor. To the extent of its practical effect it is a bond of union among the banking establishments of the nation, erecting them into an interest separate from that of the people, and its necessary tendency is to unite the Bank of the United States and the State banks in any measure which may be thought conducive to their common interest.

The ninth section of the act recognizes principles of worse tendency than any provision of the present charter.

It enacts that "the cashier of the bank shall annually report to the Secretary of the Treasury the names of all stockholders who are not resident citizens of the United States, and on the application of the treasurer of any State shall make out and transmit to such treasurer a list of stockholders residing in or citizens of such State, with the amount of stock owned by each." Although this provision, taken in connection with a decision of the Supreme Court, surrenders, by its silence, the right of the States to tax the banking institutions created by this corporation under the name of branches throughout the Union, it is evidently intended to be construed as a concession of their right to tax that portion of the stock which may be held by their own citizens and residents. In this light, if the act becomes a law, it will be understood by the States, who will probably proceed to levy a tax equal to that paid upon the stock of banks incorporated by themselves. In some States that tax is now 1 per cent, either on the capital or on the shares, and that may be assumed as the amount which all citizen or resident stockholders would be taxed under the operation of this act. As it is only the stock held in the States and not that employed within them which would be subject to taxation, and as the names of foreign stockholders are not to be reported to the treasurers of the States, it is obvious that the stock held by them will be exempt from this burden. Their annual profits will therefore be 1 per cent more than the citizen stockholders, and as the annual dividends of the bank may be safely estimated at 7 per cent, the stock will be worth 10 or 15 per cent more to foreigners than to citizens of the United States. To appreciate the effects which this state of things will produce, we must take a brief review of the operations and present condition of the Bank of the United States.

By documents submitted to Congress at the present session it appears that on the 1st of January, 1832, of the twenty-eight millions of private stock in the corporation, \$8,405,500 were held by foreigners, mostly of Great Britain. The amount of stock held in the nine Western and Southwestern States is \$140,200, and in the four Southern States is \$5,623,100, and in the Middle and Eastern States is about \$13,522,000. The profits of the bank in 1831, as shown in a statement to Congress, were about \$3,455,598; of this there accrued in the nine western States about \$1,640,048; in the four Southern States about \$352,507, and in the Middle and Eastern States about \$1,463,041. As little stock is held in the West, it is obvious that the debt of the people in that section to the bank is principally a debt to the Eastern and foreign stockholders; that the interest they pay upon it is carried into the Eastern States and into Europe, and that it is a burden upon their industry and a drain of their currency, which no country can bear without inconvenience and occasional distress. To meet this burden and equalize the exchange operations of the bank, the amount of specie drawn from those States through its branches within the last two years, as shown by its official reports, was about \$6,000,000. More than half a million of this amount does not stop in the Eastern States, but passes on to Europe to pay the dividends of the foreign stockholders. In the principle of taxation recognized by this act the Western States find no adequate compensation for this perpetual burden on their industry and drain of their currency. The branch bank at Mobile made last year \$95,140, yet under the provisions of this act the State of Alabama can raise no revenue from these profitable operations, because not a share of the stock is held by any of her citizens. Mississippi and Missouri are in the same condition in relation to the branches at Natchez and St. Louis, and such, in a greater or less degree, is the condition of every Western State. The tendency of the plan of taxation which this act proposes will be to place the whole United States in the same relation to foreign countries which the Western States now bear to the Eastern. When by a tax on resident stockholders the stock of this bank is made worth 10 or 15 per cent more to foreigners than to residents, most of it will inevitably leave the country.

Thus will this provision in its practical effect deprive the Eastern as well as the Southern and Western States of the means of raising a revenue from the extension of business and great profits of this institution. It will make the American people debtors to aliens in nearly the whole amount due to this bank, and send across the Atlantic from two to five millions of specie every year to pay the bank dividends.

In another of its bearings this provision is fraught with danger. Of the twenty-five directors of this bank five are chosen by the Government and twenty by the citizen stockholders. From all voice in these elections the foreign stockholders are excluded by the charter. In proportion, therefore, as the stock is transferred to foreign holders the extent of suffrage in the choice of directors is curtailed. Already is almost a third of the stock in foreign hands and not represented in elections. It is constantly passing out of the country, and this act will accelerate its departure. The entire control of the institution would necessarily fall into the hands of a few citizen stockholders, and the ease with which the object would be accomplished would be a temptation to designing men to secure that control in their own hands by monopolizing the remaining stock. There is danger that a president and directors would then be able to elect themselves from year to year, and without responsibility or control manage the whole concerns of the bank during the existence of its charter. It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people.

Is there no danger to our liberty and independence in a bank that in its nature has so little to bind it to our country? The president of the bank has told us that most of the State banks exist by its forbearance. Should its influence become concentrated, as it may under the operation of such an act as this, in the hands of a self-elected directory whose interests are identified with those of the foreign stockholders, will there not be cause to tremble for the purity of our elections in peace and for the independence of our country in war? Their power would be great whenever they might choose to exert it; but if this monopoly were regularly renewed every fifteen or twenty years on terms proposed by themselves, they might seldom in peace put forth their strength to influence elections or control the affairs of the nation. But if any private citizen or public functionary should interpose to curtail its powers or prevent a renewal of its privileges, it can not be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign power, and managed by those whose interests, if not affections, would run in the same direction there can be no doubt. All its operations within would be in aid of the hostile fleets and armies without. Controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

If we must have a bank with private stockholders, every consideration of sound policy and every impulse of American feeling admonishes that it should be *purely American*. Its stockholders should be composed exclusively of our own citizens, who at least ought to be friendly to our Government and willing to support it in times of difficulty and danger. So abundant is domestic capital that competition in subscribing for the stock of local banks has recently led almost to riots. To a bank exclusively of American stockholders, possessing the powers and privileges granted by this act, subscriptions for \$200,000,000 could be readily obtained. Instead of sending abroad the stock of the bank in which the Government must deposit its funds and on which it must rely to sustain its credit in times of emergency, it would rather seem to be expedient to prohibit its sale to aliens under penalty of absolute forfeiture.

It is maintained by the advocates of the bank that its constitutionality in all its features ought to be considered as settled by precedent and by the decision of the Supreme Court. To this conclusion I can not assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been probably to those in its favor as 4 to 1. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But in the case relied upon the Supreme Court have not decided that all the features of this corporation are compatible with the Constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress; but taking into view the whole opinion of the court and the reasoning by which they have come to that conclusion, I understand them to have decided that inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Government, therefore the law incorporating it is in accordance with that provision of the Constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying those powers into execution." Having satisfied themselves that the word "*necessary*" in the Constitution means "*needful*," "*requisite*," "*essential*," "*conducive to*," and that "a bank" is a convenient, a useful, and essential instrument in the prosecution of the Government's "fiscal operations," they conclude that to "use one must be within the discretion of Congress" and that "the act to incorporate the Bank of the United States is a law made in pursuance of the Constitution;" "but," say they, "*where the law is not prohibited and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department and to tread on legislative ground.*"

The principle here affirmed is that the "degree of its necessity," involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional, but it is the province of the Legislature to determine whether this or that particular power, privilege, or exemption is "necessary and proper" to enable the bank to discharge its duties to the Government, and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are *necessary* and *proper* in order to enable the bank to perform conveniently and efficiently the public duties assigned to it as a fiscal agent, and therefore constitutional, or *unnecessary* and *improper*, and therefore unconstitutional.

Without commenting on the general principle affirmed by the Supreme Court, let us examine the details of this act in accordance with the rule of legislative action which they have laid down. It will be found that many of the powers and privileges conferred on it can not be supposed necessary for the purpose for which it is proposed to be created, and are not, therefore, means necessary to attain the end in view, and consequently not justified by the Constitution.

The original act of incorporation, section 21, enacts "that no other bank shall be established by any future law of the United States during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged: *Provided*, Congress may renew existing charters for banks within the District of Columbia not increasing the capital thereof, and may also establish any other bank or banks in

said District with capitals not exceeding in the whole \$6,000,000 if they shall deem it expedient." This provision is continued in force by the act before me fifteen years from the ad of March, 1836.

If Congress possessed the power to establish one bank, they had power to establish more than one if in their opinion two or more banks had been "necessary" to facilitate the execution of the powers delegated to them in the Constitution. If they possessed the power to establish a second bank, it was a power derived from the Constitution to be exercised from time to time, and at any time when the interests of the country or the emergencies of the Government might make it expedient. It was possessed by one Congress as well as another, and by all Congresses alike, and alike at every session. But the Congress of 1816 have taken it away from their successors for twenty years, and the Congress of 1832 proposes to abolish it for fifteen years more. It can not be "*necessary*" or "*proper*" for Congress to barter away or divest themselves of any of the powers vested in them by the Constitution to be exercised for the public good. It is not "*necessary*" to the efficiency of the bank, nor is it "*proper*" in relation to themselves and their successors. They may *properly* use the discretion vested in them, but they may not limit the discretion of their successors. This restriction on themselves and grant of a monopoly to the bank is therefore unconstitutional.

In another point of view this provision is a palpable attempt to amend the Constitution by an act of legislation. The Constitution declares that "the Congress shall have power to exercise exclusive legislation in all cases whatsoever" over the District of Columbia. Its constitutional power, therefore, to establish banks in the District of Columbia and increase their capital at will is unlimited and uncontrollable by any other power than that which gave authority to the Constitution. Yet this act declares that Congress shall not increase the capital of existing banks, nor create other banks with capitals exceeding in the whole \$6,000,000. The Constitution declares that Congress *shall* have power to exercise exclusive legislation over this District "*in all cases whatsoever*," and this act declares they shall not. Which is the supreme law of the land? This provision can not be "*necessary*" or "*proper*" or *constitutional* unless the absurdity be admitted that whenever it be "necessary and proper" in the opinion of Congress they have a right to barter away one portion of the powers vested in them by the Constitution as a means of executing the rest.

On two subjects only does the Constitution recognize in Congress the power to grant exclusive privileges or monopolies. It declares that "Congress shall have power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Out of this express delegation of power have grown our laws of patents and copyrights. As the Constitution expressly delegates to Congress the power to grant exclusive privileges in these cases as the means of executing the substantive power "to promote the progress of science and useful arts," it is consistent with the fair rules of construction to conclude that such a power was not intended to be granted as a means of accomplishing any other end. On every other subject which comes within the scope of Congressional power there is an ever-living discretion in the use of proper means, which can not be restricted or abolished without an amendment of the Constitution. Every act of Congress, therefore, which attempts by grants of monopolies or sale of exclusive privileges for a limited time, or a time without limit, to restrict or extinguish its own discretion in the choice of means to execute its delegated powers is equivalent to a legislative amendment of the Constitution, and palpably unconstitutional.

This act authorizes and encourages transfers of its stock to foreigners and grants them an exemption from all State and national taxation. So far from being "*necessary and proper*" that the bank should possess this power to make it a safe and efficient agent of the Government in its fiscal operations, it is calculated to convert the Bank of the United States into a foreign bank, to impoverish our people in time of peace, to disseminate a foreign influence through every section of the Republic, and in war to endanger our independence.

The several States reserved the power at the formation of the Constitution to regulate and control titles and transfers of real property, and most, if not all, of them have laws disqualifying aliens from acquiring or holding lands within their limits. But this act, in disregard of the undoubted right of the States to prescribe such disqualifications, gives to aliens stockholders in this bank an interest and title, as members of the corporation, to all the real property it may acquire within any of the States of this Union. This privilege granted to aliens is not "*necessary*" to enable the bank to perform its public duties, nor in any sense "*proper*," because it is vitally subversive of the rights of the States.

The Government of the United States have no constitutional power to purchase lands within the States except "for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," and even for these objects only "by the consent of the legislature of the State in which the same shall be." By making themselves stockholders in the bank and granting to the corporation the power to purchase lands for other purposes they assume a power not granted in the Constitution and grant to others what they do not themselves possess. It is not *necessary* to the receiving, safe-keeping, or transmission of the funds of the Government that the bank should possess this power, and it is not *proper* that Congress should thus enlarge the powers delegated to them in the Constitution.

The old Bank of the United States possessed a capital of only \$11,000,000, which was found fully sufficient to enable it with dispatch and safety to perform all the functions required of it by the Government. The capital of the present bank is \$35,000,000—at least twenty-four more than experience has proved to be *necessary* to enable a bank to perform its public functions. The public debt which existed during the period of the old bank and on the establishment of the new has been nearly paid off, and our revenue will soon be reduced. This increase of capital is therefore not for public but for private purposes.

The Government is the only "*proper*" judge where its agents should reside and keep their offices, because it best knows where their presence will be "*necessary*." It can not, therefore, be "*necessary*" or "*proper*" to authorize the bank to locate branches where it pleases to perform the public service, without consulting the Government, and contrary to its will. The principle laid down by the Supreme Court concedes that Congress can not establish a bank for purposes of private speculation and gain, but only as a means of executing the delegated powers of the General Government. By the same principle a branch bank can not constitutionally be established for other than public purposes. The power which this act gives to establish two branches in any State, without the injunction or request of the Government and for other than public purposes, is not "*necessary*" to the due *execution* of the powers delegated to Congress.

The bonus which is exacted from the bank is a confession upon the face of the act that the powers granted by it are greater than are "*necessary*" to its character of a fiscal agent. The Government does not tax its officers and agents for the privilege of serving it. The bonus of a million and a half required by the original charter and that of three millions proposed by this act are not exacted for the privilege of giving "the necessary facilities for transferring the public funds from place to place within the United States or the Territories thereof, and for distributing

the same in payment of the public creditors without charging commission or claiming allowance on account of the difference of exchange," as required by the act of incorporation, but for something more beneficial to the stockholders. The original act declares that it (the bonus) is granted "in consideration of the exclusive privileges and benefits conferred by this act upon the said bank," and the act before me declares it to be "in consideration of the exclusive benefits and privileges continued by this act to the said corporation for fifteen years, as aforesaid." It is therefore for "exclusive privileges and benefits" conferred for their own use and emolument, and not for the advantage of the Government, that a bonus is exacted. These surplus powers for which the bank is required to pay can not surely be "*necessary*" to make it the fiscal agent of the Treasury. If they were, the exaction of a bonus for them would not be "*proper*."

It is maintained by some that the bank is a means of executing the constitutional power "to coin money and regulate the value thereof." Congress have established a mint to coin money and passed laws to regulate the value thereof. The money so coined, with its value so regulated, and such foreign coins as Congress may adopt are the only currency known to the Constitution. But if they have other power to regulate the currency, it was conferred to be exercised by themselves, and not to be transferred to a corporation. If the bank be established for that purpose, with a charter unalterable without its consent, Congress have parted with their power for a term of years, during which the Constitution is a dead letter. It is neither necessary nor proper to transfer its legislative power to such a bank, and therefore unconstitutional.

By its silence, considered in connection with the decision of the Supreme Court in the case of *McCulloch* against the State of Maryland, this act takes from the States the power to tax a portion of the banking business carried on within their limits, in subversion of one of the strongest barriers which secured them against Federal encroachments. Banking, like farming, manufacturing, or any other occupation or profession, is a *business*, the right to follow which is not originally derived from the laws. Every citizen and every company of citizens in all of our States possessed the right until the State legislatures deemed it good policy to prohibit private banking by law. If the prohibitory State laws were now repealed, every citizen would again possess the right. The State banks are a qualified restoration of the right which has been taken away by the laws against banking, guarded by such provisions and limitations as in the opinion of the State legislatures the public interest requires. These corporations, unless there be an exemption in their charter, are, like private bankers and banking companies, subject to State taxation. The manner in which these taxes shall be laid depends wholly on legislative discretion. It may be upon the bank, upon the stock, upon the profits, or in any other mode which the sovereign power shall will.

Upon the formation of the Constitution the States guarded their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other object within their jurisdiction, whether persons, property, business, or professions, it was secured in as ample a manner as it was before possessed. All persons, though United States officers, are liable to a poll tax by the States within which they reside. The lands of the United States are liable to the usual land tax, except in the new States, from whom agreements that they will not tax unsold lands are exacted when they are admitted into the Union. Horses, wagons, any beasts or vehicles, tools, or property belonging to private citizens, though employed in the service of the United States, are subject to State taxation. Every private business, whether carried on by an officer of the General Government or not, whether it be mixed with public concerns or not, even if it be carried on by the Government of the United States itself, separately or in partnership, falls within the scope of the taxing power of the State. Nothing comes more fully within it than banks and the business of banking, by whomsoever instituted and carried on. Over this whole subject-matter it is just as absolute, unlimited, and uncontrollable as if the Constitution had never been adopted, because in the formation of that instrument it was reserved without qualification.

The principle is conceded that the States can not rightfully tax the operations of the General Government. They can not tax the money of the Government deposited in the State banks, nor the agency of those banks in remitting it; but will any man maintain that their mere selection to perform this public service for the General Government would exempt the State banks and their ordinary business from State taxation? Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principal, then, are the banking establishments of the Bank of the United States and their usual banking operations to be exempted from taxation? It is not their public agency or the deposits of the Government which the States claim a right to tax, but their banks and their banking powers, instituted and exercised within State jurisdiction for their private emolument—those powers and privileges for which they pay a bonus, and which the States tax in their own banks. The exercise of these powers within a State, no matter by whom or under what authority, whether by private citizens in their original right, by corporate bodies created by the States, by foreigners or the agents of foreign governments located within their limits, forms a legitimate object of State taxation. From this and like sources, from the persons, property, and business that are found residing, located, or carried on under their jurisdiction, must the States, since the surrender of their right to raise a revenue from imports and exports, draw all the money necessary for the support of their governments and the maintenance of their independence. There is no more appropriate subject of taxation than banks, banking, and bank stocks, and none to which the States ought more pertinaciously to cling.

It can not be *necessary* to the character of the bank as a fiscal agent of the Government that its private business should be exempted from that taxation to which all the State banks are liable, nor can I conceive it "*proper*" that the substantive and most essential powers reserved by the States shall be thus attacked and annihilated as a means of executing the powers delegated to the General Government. It may be safely assumed that none of those sages who had an agency in forming or adopting our Constitution ever imagined that any portion of the taxing power of the States not prohibited to them nor delegated to Congress was to be swept away and annihilated as a means of executing certain powers delegated to Congress.

If our power over means is so absolute that the Supreme Court will not call in question the constitutionality of an act of Congress the subject of which "is not prohibited, and is really calculated to effect any of the objects intrusted to the Government," although, as in the case before me, it takes away powers expressly granted to Congress and rights scrupulously reserved to the States, it becomes us to proceed in our legislation with the utmost caution. Though not directly, our own powers and the rights of the States may be indirectly legislated away in the use of means to execute substantive powers. We may not enact that Congress shall not have the power of exclusive legislation over the District of Columbia, but we may pledge the faith of the United States that as a means of executing other powers it shall not be exercised for twenty years or forever. We may not pass an act prohibiting the States to tax the banking business carried on within their limits, but we may, as a means of executing our powers over other objects, place that business in the hands of our agents and then declare it exempt from State taxation in their hands. Thus may our own powers and the rights of the States, which we can not directly curtail or invade, be frittered away and extinguished in the use of means employed by us to execute other powers. That a bank of the United States, competent to all the duties which may be

required by the Government, might be so organized as not to infringe on our own delegated powers or the reserved rights of the States I do not entertain a doubt. Had the Executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. In the absence of such a call it was obviously proper that he should confine himself to pointing out those prominent features in the act presented which in his opinion make it incompatible with the Constitution and sound policy. A general discussion will now take place, eliciting new light and settling important principles; and a new Congress, elected in the midst of such discussion, and furnishing an equal representation of the people according to the last census, will bear to the Capitol the verdict of public opinion, and, I doubt not, bring this important question to a satisfactory result.

Under such circumstances the bank comes forward and asks a renewal of its charter for a term of fifteen years upon conditions which not only operate as a gratuity to the stockholders of many millions of dollars, but will sanction any abuses and legalize any encroachments.

Suspensions are entertained and charges are made of gross abuse and violation of its charter. An investigation unwillingly conceded and so restricted in time as necessarily to make it incomplete and unsatisfactory discloses enough to excite suspicion and alarm. In the practices of the principal bank partially unveiled, in the absence of important witnesses, and in numerous charges confidently made and as yet wholly uninvestigated there was enough to induce a majority of the committee of investigation—a committee which was selected from the most able and honorable members of the House of Representatives—to recommend a suspension of further action upon the bill and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so there seems to be an additional reason why the functionaries of the Government should proceed with less haste and more caution in the renewal of their monopoly.

The bank is professedly established as an agent of the executive branch of the Government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action nor upon the provisions of this act was the Executive consulted. It has had no opportunity to say that it neither needs nor wants an agent clothed with such powers and favored by such exemptions. There is nothing in its legitimate functions which makes it necessary or proper. Whatever interest or influence, whether public or private, has given birth to this act, it can not be found either in the wishes or necessities of the executive department, by which present action is deemed premature, and the powers conferred upon its agent not only unnecessary, but dangerous to the Government and country.

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth can not be produced by human institutions. In the full enjoyment of the gifts of Heaven and the fruits of superior industry, economy, and virtue, every man is equally entitled to protection by law; but when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society—the farmers, mechanics, and laborers—who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their Government. There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection, and, as Heaven does its rains, shower its favors alike on the high and the low, the rich and the poor, it would be an unqualified blessing. In the act before me there seems to be a wide and unnecessary departure from these just principles.

Nor is our Government to be maintained or our Union preserved by invasions of the rights and powers of the several States. In thus attempting to make our General Government strong we make it weak. Its true strength consists in leaving individuals and States as much as possible to themselves—in making itself felt, not in its power, but in its beneficence; not in its control, but in its protection; not in binding the States more closely to the center, but leaving each to move unobstructed in its proper orbit.

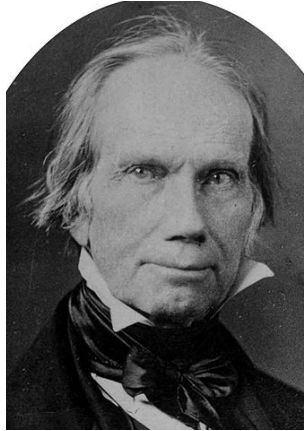
Experience should teach us wisdom. Most of the difficulties our Government now encounters and most of the dangers which impend over our Union have sprung from an abandonment of the legitimate objects of Government by our national legislation, and the adoption of such principles as are embodied in this act. Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by act of Congress. By attempting to gratify their desires we have in the results of our legislation arrayed section against section, interest against interest, and man against man, in a fearful commotion which threatens to shake the foundations of our Union. It is time to pause in our career to review our principles, and if possible revive that devoted patriotism and spirit of compromise which distinguished the sages of the Revolution and the fathers of our Union. If we can not at once, in justice to interests vested under improvident legislation, make our Government what it ought to be, we can at least take a stand against all new grants of monopolies and exclusive privileges, against any prostitution of our Government to the advancement of the few at the expense of the many, and in favor of compromise and gradual reform in our code of laws and system of political economy.

I have now done my duty to my country. If sustained by my fellow citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me ample grounds for contentment and peace. In the difficulties which surround us and the dangers which threaten our institutions there is cause for neither dismay nor alarm. For relief and deliverance let us firmly rely on that kind Providence which I am sure watches with peculiar care over the destinies of our Republic, and on the intelligence and wisdom of our countrymen. Through His abundant goodness and their patriotic devotion our liberty and Union will be preserved.

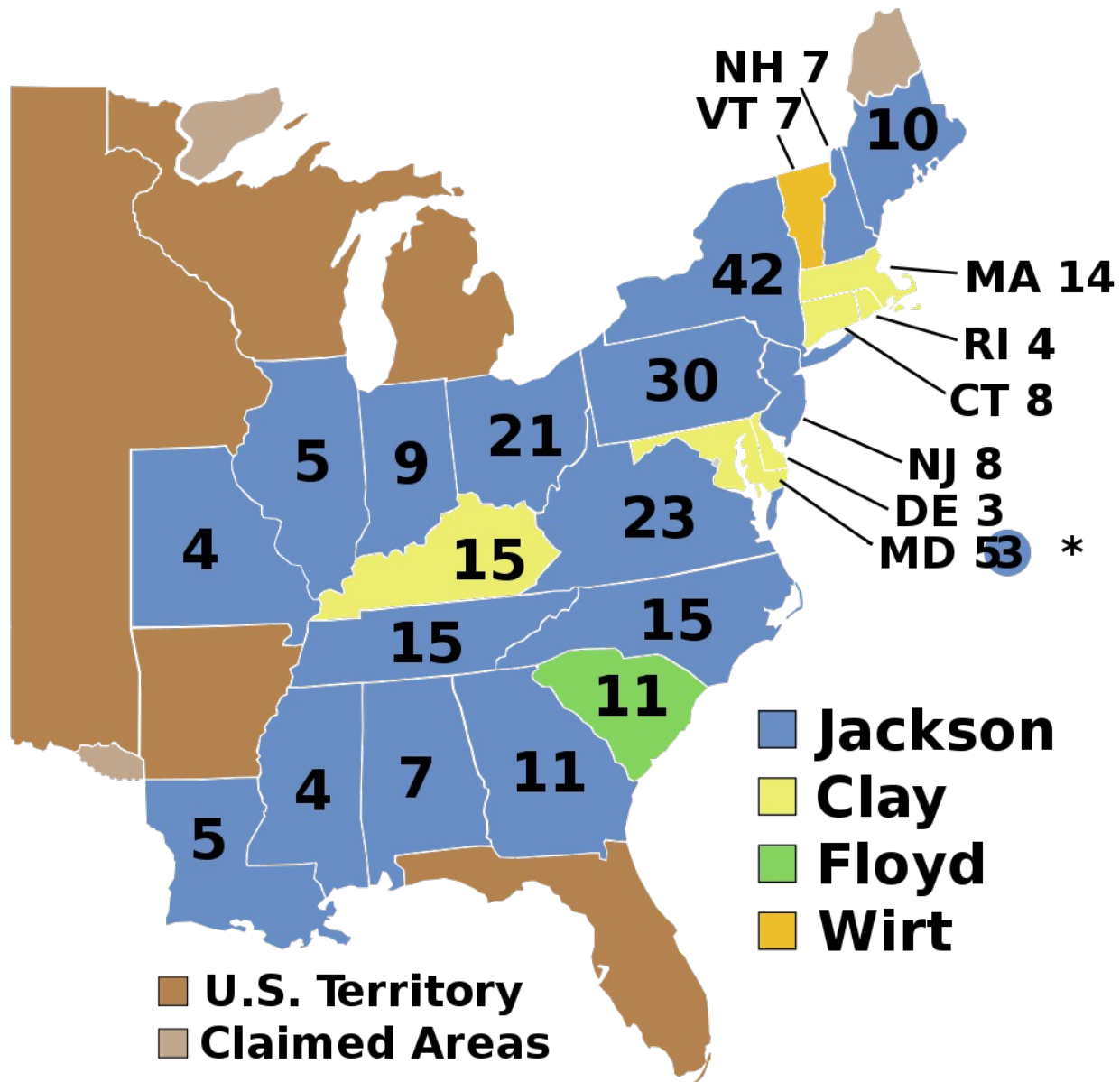
—ANDREW JACKSON.

Source: http://www.milestonedocuments.com/document_detail.php?id=30&more=fulltext

1832 Presidential Election Candidates



Andrew Jackson (Democrat), Henry Clay (Whig), William Wirt (Anti-Masonic), John Floyd (Nullifier)



“The Bank, Mr. Van Buren, is trying to kill me, but I will kill it.”
 – President Andrew Jackson, to Martin Van Buren, 1832

U.S. Supreme Court Case *McCulloch v. Maryland* (1819)
Ruled Unanimously 7-0: Chief Justice John Marshall Presiding

MCCULLOCH V. MARYLAND, 17 U. S. 316 (1819)

[Case Preview](#)
[Full Text of Case](#)

U.S. Supreme Court

McCulloch v. Maryland, 17 U.S. 4 Wheat. 316 316 (1819)

McCulloch v. Maryland 17 U.S. (4 Wheat.) 316

ERROR TO THE COURT OF APPEALS OF THE STATE OF MARYLAND

Syllabus

Congress has power to incorporate a bank

The Act of the 10th of April, 1816, ch. 44, to "incorporate the subscribers to the Bank of the United States" is a law made in pursuance of the Constitution.

The Government of the Union, though limited in its powers, is supreme within its sphere of action, and its laws, when made in pursuance of the Constitution, form the supreme law of the land.

There is nothing in the Constitution of the United States similar to the Articles of Confederation, which exclude incidental or implied powers.

If the end be legitimate, and within the scope of the Constitution, all the means which are appropriate, which are plainly adapted to that end, and which are not prohibited, may constitutionally be employed to carry it into effect.

The power of establishing a corporation is not a distinct sovereign power or end of Government, but only the means of carrying into effect other powers which are sovereign. Whenever it becomes an appropriate means of exercising any of the powers given by the Constitution to the Government of the Union, it may be exercised by that Government.

If a certain means to carry into effect of any of the powers expressly given by the Constitution to the Government of the Union be an appropriate measure, not prohibited by the Constitution, the degree of its necessity is a question of legislative discretion, not of judicial cognizance.

The Bank of the United States has, constitutionally, a right to establish its branches or offices of discount and deposit within any state.

The State within which such branch may be established cannot, without violating the Constitution, tax that branch.

The State governments have no right to tax any of the constitutional means employed by the Government of the Union to execute its constitutional powers.

The States have no power, by taxation or otherwise, to retard, impede, burthen, or in any manner control the operations of the constitutional laws enacted by Congress to carry into effect the powers vested in the national Government.

This principle does not extend to a tax paid by the real property of the Bank of the United States in common with the other real property in a particular state, nor to a tax imposed on the proprietary interest which the citizens of that State may hold in this institution, in common with other property of the same description throughout the State.

This was an action of debt, brought by the defendant in error, John James, who sued as well for himself as for the State of Maryland, in the County Court of Baltimore County, in the said State, against the plaintiff in error, McCulloch, to recover certain penalties, under the act of the Legislature of Maryland hereafter mentioned. Judgment being rendered against the plaintiff in error, upon the following

statement of facts agreed and submitted to the court by the parties, was affirmed by the Court of Appeals of the State of Maryland, the highest court of law of said State, and the cause was brought by writ of error to this Court.

It is admitted by the parties in this cause, by their counsel, that there was passed, on the 10th day of April, 1816, by the Congress of the United States, an act entitled, "an act to incorporate the subscribers to the Bank of the United States;" and that there was passed on the 11th day of February, 1818, by the General Assembly of Maryland, an act, entitled, "an act to impose a tax on all banks, or branches thereof, in the State of Maryland, *not chartered by the legislature*,"

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which said acts are made part of this Statement, and it is agreed, may be read from the statute books in which they are respectively printed. It is further admitted that the President, directors and company of the Bank of the United States, incorporated by the act of Congress aforesaid, did organize themselves, and go into full operation, in the City of Philadelphia, in the State of Pennsylvania, in pursuance of the said act, and that they did on the ____ day of ____ 1817, establish a branch of the said bank, or an office of discount and deposit, in the City of Baltimore, in the State of Maryland, which has, from that time until the first day of May 1818, ever since transacted and carried on business as a bank, or office of discount and deposit, and as a branch of the said Bank of the United States, by issuing bank notes and discounting promissory notes, and performing other operations usual and customary for banks to do and perform, under the authority and by the direction of the said President, directors and company of the Bank of the United States, established at Philadelphia as aforesaid. It is further admitted that the said President, directors and company of the said bank had no authority to establish the said branch, or office of discount and deposit, at the City of Baltimore, from the State of Maryland, otherwise than the said State having adopted the Constitution of the United States and composing one of the States of the Union. It is further admitted that James William McCulloch, the defendant below, being the cashier of the said branch, or office of discount and

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deposit did, on the several days set forth in the declaration in this cause, issue the said respective bank notes therein described, from the said branch or office, to a certain George Williams, in the City of Baltimore, in part payment of a promissory note of the said Williams, discounted by the said branch or office, which said respective bank notes were not, nor was either of them, so issued on stamped paper in the manner prescribed by the act of assembly aforesaid. It is further admitted that the said President, directors and company of the Bank of the United States, and the said branch, or office of discount and deposit have not, nor has either of them, paid in advance, or otherwise, the sum of \$15,000, to the Treasurer of the Western Shore, for the use of the State of Maryland, before the issuing of the said notes, or any of them, nor since those periods. And it is further admitted that the Treasurer of the Western Shore of Maryland, under the direction of the Governor and Council of the said State, was ready, and offered to deliver to the said President, directors and company of the said bank, and to the said branch, or office of discount and deposit, stamped paper of the kind and denomination required and described in the said act of assembly.

The question submitted to the Court for their decision in this case is as to the validity of the said act of the General Assembly of Maryland on the ground of its being repugnant to the Constitution of the United States and the act of Congress aforesaid, or to one of them. Upon the foregoing statement of facts and the pleadings in this cause (all errors in

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which are hereby agreed to be mutually released), if the Court should be of opinion that the plaintiffs are entitled to recover, then judgment, it is agreed, shall be entered for the plaintiffs for \$2,500 and costs of suit. But if the Court should be of opinion that the plaintiffs are not entitled to recover upon the statement and pleadings aforesaid, then judgment of *non pros* shall be entered, with costs to the defendant.

It is agreed that either party may appeal from the decision of the County Court to the Court of Appeals, and from the decision of the Court of Appeals to the Supreme Court of the United States, according to the modes and usages of law, and have the same benefit of this statement of facts in the same manner as could be had if a jury had been sworn and impaneled in this cause and a special verdict had been found, or these facts had appeared and been stated in an exception taken to the opinion of the Court, and the Court's direction to the jury thereon.

Copy of the act of the Legislature of the State of Maryland, referred to in the preceding Statement.

"An act to impose a tax on all banks or branches thereof, in the"

"State of Maryland not chartered by the legislature"

"Be it enacted by the General Assembly of Maryland that if any bank has established or shall, without authority from the State first had and obtained establish any branch, office of discount and

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deposit, or office of pay and receipt in any part of this State, it shall not be lawful for the said branch, office of discount and deposit, or office of pay and receipt to issue notes, in any manner, of any other denomination than five, ten, twenty, fifty, one hundred, five hundred and one thousand dollars, and no note shall be issued except upon stamped paper of the following denominations; that is to say, every five dollar note shall be upon a stamp of ten cents; every ten dollar note, upon a stamp of twenty cents; every twenty dollar note, upon a stamp of thirty cents; every fifty dollar note, upon a stamp of fifty cents; every one hundred dollar note, upon a stamp of one dollar; every five hundred dollar note, upon a stamp of ten dollars; and every thousand dollar note, upon a stamp of twenty dollars; which paper shall be furnished by the Treasurer of the Western Shore, under the direction of the Governor and Council, to be paid for upon delivery; provided always that any institution of the above description may relieve itself from the operation of the provisions aforesaid by paying annually, in advance, to the Treasurer of the Western Shore, for the use of State, the sum of \$15,000."

"And be it enacted that the President, cashier, each of the directors and officers of every institution established or to be established as aforesaid, offending against the provisions aforesaid shall forfeit a sum of \$500 for each and every offence, and every person having any agency in circulating any note aforesaid, not stamped as aforesaid directed, shall forfeit a sum not exceeding \$100,

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every penalty aforesaid to be recovered by indictment or action of debt in the county court of the county where the offence shall be committed, one-half to the informer and the other half to the use of the State."

"And be it enacted that this act shall be in full force and effect from and after the first day of May next. "

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MARSHALL, Chief Justice, delivered the opinion of the Court.

In the case now to be determined, the defendant, a sovereign State, denies the obligation of a law enacted by the legislature of the Union, and the plaintiff, on his part, contests the validity of an act which has been passed by the legislature of that State. The Constitution of our country, in its most interesting and vital parts, is to be considered, the conflicting powers of the Government of the Union and of its members, as marked in that Constitution, are to be discussed, and an opinion given which may essentially influence the great operations of the Government. No tribunal can approach such a question without a deep sense of its importance, and of the awful responsibility involved in its decision. But it must be decided peacefully, or remain a source of

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hostile legislation, perhaps, of hostility of a still more serious nature; and if it is to be so decided, by this tribunal alone can the decision be made. On the Supreme Court of the United States has the Constitution of our country devolved this important duty.

The first question made in the cause is -- has Congress power to incorporate a bank?

It has been truly said that this can scarcely be considered as an open question entirely unprejudiced by the former proceedings of the Nation respecting it. The principle now contested was introduced at a very early period of our history, has been recognised by many successive legislatures, and has been acted upon by the Judicial Department, in cases of peculiar delicacy, as a law of undoubted obligation.

It will not be denied that a bold and daring usurpation might be resisted after an acquiescence still longer and more complete than this. But it is conceived that a doubtful question, one on which human reason may pause and the human judgment be suspended, in the decision of which the great principles of liberty are not concerned, but the respective powers of those who are equally the representatives of the people, are to be adjusted, if not put at rest by the practice of the Government, ought to receive a considerable impression from that practice. An exposition of the Constitution, deliberately established by legislative acts, on the faith of which an immense property has been advanced, ought not to be lightly disregarded.

The power now contested was exercised by the first Congress elected under the present Constitution.

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The bill for incorporating the Bank of the United States did not steal upon an unsuspecting legislature and pass unobserved. Its principle was completely understood, and was opposed with equal zeal and ability. After being resisted first in the fair and open field of debate, and afterwards in the executive cabinet, with as much persevering talent as any measure has ever experienced, and being supported by arguments which convinced minds as pure and as intelligent as this country can boast, it became a law. The original act was permitted to expire, but a short experience of the embarrassments to which the refusal to revive it exposed the Government convinced those who were most prejudiced against the measure of its necessity, and induced the passage of the present law. It would require no ordinary share of intrepidity to assert that a measure adopted under these circumstances was a bold and plain usurpation to which the Constitution gave no countenance. These observations belong to the cause; but they are not made under the impression that, were the question entirely new, the law would be found irreconcilable with the Constitution.

In discussing this question, the counsel for the State of Maryland have deemed it of some importance, in the construction of the Constitution, to consider that instrument not as emanating from the people, but as the act of sovereign and independent States. The powers of the General Government, it has been said, are delegated by the States, who alone are truly sovereign, and must be exercised in subordination to the States, who alone possess supreme dominion.

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It would be difficult to sustain this proposition. The convention which framed the Constitution was indeed elected by the State legislatures. But the instrument, when it came from their hands, was a mere proposal, without obligation or pretensions to it. It was reported to the then existing Congress of the United States with a request that it might

"be submitted to a convention of delegates, chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification."

This mode of proceeding was adopted, and by the convention, by Congress, and by the State legislatures, the instrument was submitted to the people. They acted upon it in the only manner in which they can act safely, effectively and wisely, on such a subject -- by assembling in convention. It is true, they assembled in their several States -- and where else should they have assembled? No political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the American people into one common mass. Of consequence, when they act, they act in their States. But the measures they adopt do not, on that account, cease to be the measures of the people themselves, or become the measures of the State governments.

From these conventions the Constitution derives its whole authority. The government proceeds directly from the people; is "ordained and established" in the name of the people, and is declared to be ordained,

"in order to form a more perfect union, establish justice, insure domestic tranquillity, and secure

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the blessings of liberty to themselves and to their posterity."

The assent of the States in their sovereign capacity is implied in calling a convention, and thus submitting that instrument to the people. But the people were at perfect liberty to accept or reject it, and their act was final. It required not the affirmance, and could not be negatived, by the State Governments. The Constitution, when thus adopted, was of complete obligation, and bound the State sovereignties.

It has been said that the people had already surrendered all their powers to the State sovereignties, and had nothing more to give. But surely the question whether they may resume and modify the powers granted to Government does not remain to be settled in this country. Much more might the legitimacy of the General Government be doubted had it been created by the States. The powers delegated to the State sovereignties were to be exercised by themselves, not by a distinct and independent sovereignty created by themselves. To the formation of a league such as was the Confederation, the State sovereignties were certainly competent. But when, "in order to form a more perfect union," it was deemed necessary to change this alliance into an effective Government, possessing great and sovereign powers and acting directly on the people, the necessity of referring it to the people, and of deriving its powers directly from them, was felt and acknowledged by all. The Government of the Union then (whatever may be the influence of this fact on the case) is,

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emphatically and truly, a Government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit.

This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge; that principle is now universally admitted. But the question respecting the extent of the powers actually granted is perpetually arising, and will probably continue to arise so long as our system shall exist. In discussing these questions, the conflicting powers of the General and State Governments must be brought into view, and the supremacy of their respective laws, when they are in opposition, must be settled.

If any one proposition could command the universal assent of mankind, we might expect it would be this -- that the Government of the Union, though limited in its powers, is supreme within its sphere of action. This would seem to result necessarily from its nature. It is the Government of all; its powers are delegated by all; it represents all, and acts for all. Though any one State may be willing to control its operations, no State is willing to allow others to control them. The nation, on those subjects on which it can act, must necessarily bind its component parts. But this question is not left to mere reason; the people have, in express terms, decided it by saying,

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"this Constitution, and the laws of the United States, which shall be made in pursuance thereof," "shall be the supreme law of the land," and by requiring that the members of the State legislatures and the officers of the executive and judicial departments of the States shall take the oath of fidelity to it. The Government of the United States, then, though limited in its powers, is supreme, and its laws, when made in pursuance of the Constitution, form the supreme law of the land, "anything in the Constitution or laws of any State to the contrary notwithstanding."

Among the enumerated powers, we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which, like the Articles of Confederation, excludes incidental or implied powers and which requires that everything granted shall be expressly and minutely described. Even the 10th Amendment, which was framed for the purpose of quieting the excessive jealousies which had been excited, omits the word "expressly," and declares only that the powers "not delegated to the United States, nor prohibited to the States, are reserved to the States or to the people," thus leaving the question whether the particular power which may become the subject of contest has been delegated to the one Government, or prohibited to the other, to depend on a fair construction of the whole instrument. The men who drew and adopted this amendment had experienced the embarrassments resulting from the insertion of this word in the Articles

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of Confederation, and probably omitted it to avoid those embarrassments. A Constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves. That this idea was entertained by the framers of the American Constitution is not only to be inferred from the nature of the instrument, but from the language. Why else were some of the limitations found in the 9th section of the 1st article introduced? It is also in some degree warranted by their having omitted to use any restrictive term which might prevent its receiving a fair and just interpretation. In considering this question, then, we must never forget that it is *a Constitution* we are expounding.

Although, among the enumerated powers of Government, we do not find the word "bank" or "incorporation," we find the great powers, to lay and collect taxes; to borrow money; to regulate commerce; to declare and conduct a war; and to raise and support armies and navies. The sword and the purse, all the external relations, and no inconsiderable portion of the industry of the nation are intrusted to its Government. It can never be pretended

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that these vast powers draw after them others of inferior importance merely because they are inferior. Such an idea can never be advanced. But it may with great reason be contended that a Government intrusted with such ample powers, on the due execution of which the happiness and prosperity of the Nation so vitally depends, must also be intrusted with ample means for their execution. The power being given, it is the interest of the Nation to facilitate its execution. It can never be their interest, and cannot be presumed to have been their intention, to clog and embarrass its execution by withholding the most appropriate means. Throughout this vast republic, from the St. Croix to the Gulf of Mexico, from the Atlantic to the Pacific, revenue is to be collected and expended, armies are to be marched and supported. The exigencies of the Nation may require that the treasure raised in the north should be transported to the south that raised in the east, conveyed to the west, or that this order should be reversed. Is that construction of the Constitution to be preferred which would render these operations difficult, hazardous and expensive? Can we adopt that construction (unless the words imperiously require it) which would impute to the framers of that instrument, when granting these powers for the public good, the intention of impeding their exercise, by withholding a choice of means? If, indeed, such be the mandate of the Constitution, we have

only to obey; but that instrument does not profess to enumerate the means by which the powers it confers may be executed; nor does it prohibit the creation of a corporation,

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if the existence of such a being be essential, to the beneficial exercise of those powers. It is, then, the subject of fair inquiry how far such means may be employed.

It is not denied that the powers given to the Government imply the ordinary means of execution. That, for example, of raising revenue and applying it to national purposes is admitted to imply the power of conveying money from place to place as the exigencies of the Nation may require, and of employing the usual means of conveyance. But it is denied that the Government has its choice of means, or that it may employ the most convenient means if, to employ them, it be necessary to erect a corporation. On what foundation does this argument rest? On this alone: the power of creating a corporation is one appertaining to sovereignty, and is not expressly conferred on Congress. This is true. But all legislative powers appertain to sovereignty. The original power of giving the law on any subject whatever is a sovereign power, and if the Government of the Union is restrained from creating a corporation as a means for performing its functions, on the single reason that the creation of a corporation is an act of sovereignty, if the sufficiency of this reason be acknowledged, there would be some difficulty in sustaining the authority of Congress to pass other laws for the accomplishment of the same objects. The Government which has a right to do an act and has imposed on it the duty of performing that act must, according to the dictates of reason, be allowed

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to select the means, and those who contend that it may not select any appropriate means that one particular mode of effecting the object is excepted take upon themselves the burden of establishing that exception.

The creation of a corporation, it is said, appertains to sovereignty. This is admitted. But to what portion of sovereignty does it appertain? Does it belong to one more than to another? In America, the powers of sovereignty are divided between the Government of the Union and those of the States. They are each sovereign with respect to the objects committed to it, and neither sovereign with respect to the objects committed to the other. We cannot comprehend that train of reasoning, which would maintain that the extent of power granted by the people is to be ascertained not by the nature and terms of the grant, but by its date. Some State Constitutions were formed before, some since, that of the United States. We cannot believe that their relation to each other is in any degree dependent upon this circumstance. Their respective powers must, we think, be precisely the same as if they had been formed at the same time. Had they been formed at the same time, and had the people conferred on the General Government the power contained in the Constitution, and on the States the whole residuum of power, would it have been asserted that the Government of the Union was not sovereign, with respect to those objects which were intrusted to it, in relation to which its laws were declared to be supreme? If this could not have been asserted, we cannot well comprehend the process of reasoning

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which maintains that a power appertaining to sovereignty cannot be connected with that vast portion of it which is granted to the General Government, so far as it is calculated to subserve the legitimate objects of that Government. The power of creating a corporation, though appertaining to sovereignty, is not, like the power of making war or levying taxes or of regulating commerce, a great substantive and independent power which cannot be implied as incidental to other powers or used as a means of executing them. It is never the end for which other powers are exercised, but a means by which other objects are accomplished. No contributions are made to charity for the sake of an incorporation, but a corporation is created to administer the charity; no seminary of learning is instituted in order to be incorporated, but the corporate character is conferred to subserve the purposes of education. No city was ever built with the sole object of being incorporated, but is incorporated as affording the best means of being well governed. The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is therefore perceived why it may not pass as incidental to those powers which are expressly given if it be a direct mode of executing them.

But the Constitution of the United States has not left the right of Congress to employ the necessary means for the execution of the powers conferred on the Government to general reasoning. To its enumeration of powers is added that of making

"all

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laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department thereof."

The counsel for the State of Maryland have urged various arguments to prove that this clause, though in terms a grant of power, is not so in effect, but is really restrictive of the general right which might otherwise be implied of selecting means for executing the enumerated powers. In support of this proposition, they have found it necessary to contend that this clause was inserted for the purpose of conferring on Congress the power of making laws. That, without it, doubts might be entertained whether Congress could exercise its powers in the form of legislation.

But could this be the object for which it was inserted? A Government is created by the people having legislative, executive and judicial powers. Its legislative powers are vested in a Congress, which is to consist of a senate and house of representatives. Each house may determine the rule of its proceedings, and it is declared that every bill which shall have passed both houses shall, before it becomes a law, be presented to the President of the United States. The 7th section describes the course of proceedings by which a bill shall become a law, and then the 8th section enumerates the powers of Congress. Could it be necessary to say that a legislature should exercise legislative powers, in the shape of legislation? After allowing each house to prescribe

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its own course of proceeding, after describing the manner in which a bill should become a law, would it have entered into the mind of a single member of the convention that an express power to make laws was necessary to enable the legislature to make them? That a legislature, endowed with legislative powers, can legislate is a proposition too self-evident to have been questioned.

But the argument on which most reliance is placed is drawn from that peculiar language of this clause. Congress is not empowered by it to make all laws which may have relation to the powers conferred on the Government, but such only as may be "necessary and proper" for carrying them into execution. The word "necessary" is considered as controlling the whole sentence, and as limiting the right to pass laws for the execution of the granted powers to such as are indispensable, and without which the power would be nugatory. That it excludes the choice of means, and leaves to Congress in each case that only which is most direct and simple.

Is it true that this is the sense in which the word "necessary" is always used? Does it always import an absolute physical necessity so strong that one thing to which another may be termed necessary cannot exist without that other? We think it does not. If reference be had to its use in the common affairs of the world or in approved authors, we find that it frequently imports no more than that one thing is convenient, or useful, or essential to another. To employ the means necessary to an end is generally understood as employing any means calculated to

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produce the end, and not as being confined to those single means without which the end would be entirely unattainable. Such is the character of human language that no word conveys to the mind in all situations one single definite idea, and nothing is more common than to use words in a figurative sense. Almost all compositions contain words which, taken in a their rigorous sense, would convey a meaning different from that which is obviously intended. It is essential to just construction that many words which import something excessive should be understood in a more mitigated sense -- in that sense which common usage justifies. The word "necessary" is of this description. It has not a fixed character peculiar to itself. It admits of all degrees of comparison, and is often connected with other words which increase or diminish the impression the mind receives of the urgency it imports. A thing may be necessary, very necessary, absolutely or indispensably necessary. To no mind would the same idea be conveyed by these several phrases. The comment on the word is well illustrated by the passage cited at the bar from the 10th section of the 1st article of the Constitution. It is, we think, impossible to compare the sentence which prohibits a State from laying "imposts, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws," with that which authorizes Congress "to make all laws which shall be necessary and proper for carrying into execution" the powers of the General Government without feeling a conviction that the convention understood itself to change materially

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the meaning of the word "necessary," by prefixing the word "absolutely." This word, then, like others, is used in various senses, and, in its construction, the subject, the context, the intention of the person using them are all to be taken into view.

Let this be done in the case under consideration. The subject is the execution of those great powers on which the welfare of a Nation essentially depends. It must have been the intention of those who gave these powers to insure, so far as human prudence could insure, their beneficial execution. This could not be done by confiding the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. This provision is made in a Constitution intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs. To have prescribed the means by which Government should, in all future time, execute its powers would have been to change entirely the character of the instrument and give it the properties of a legal code. It would have been an unwise attempt to provide by immutable rules for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared

that the best means shall not be used, but those alone without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances.

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If we apply this principle of construction to any of the powers of the Government, we shall find it so pernicious in its operation that we shall be compelled to discard it. The powers vested in Congress may certainly be carried into execution, without prescribing an oath of office. The power to exact this security for the faithful performance of duty is not given, nor is it indispensably necessary. The different departments may be established; taxes may be imposed and collected; armies and navies may be raised and maintained; and money may be borrowed, without requiring an oath of office. It might be argued with as much plausibility as other incidental powers have been assailed that the convention was not unmindful of this subject. The oath which might be exacted -- that of fidelity to the Constitution -- is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest.

So, with respect to the whole penal code of the United States, whence arises the power to punish in cases not prescribed by the Constitution? All admit that the Government may legitimately punish any violation of its laws, and yet this is not among the enumerated powers of Congress. The right to enforce the observance of law by punishing its infraction might be denied with the more plausibility because it is expressly given in some cases.

Congress is empowered "to provide for the punishment

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of counterfeiting the securities and current coin of the United States," and "to define and punish piracies and felonies committed on the high seas, and offences against the law of nations." The several powers of Congress may exist in a very imperfect State, to be sure, but they may exist and be carried into execution, although no punishment should be inflicted, in cases where the right to punish is not expressly given.

Take, for example, the power "to establish post-offices and post-roads." This power is executed by the single act of making the establishment. But from this has been inferred the power and duty of carrying the mail along the post road from one post office to another. And from this implied power has again been inferred the right to punish those who steal letters from the post office, or rob the mail. It may be said with some plausibility that the right to carry the mail, and to punish those who rob it, is not indispensably necessary to the establishment of a post office and post road. This right is indeed essential to the beneficial exercise of the power, but not indispensably necessary to its existence. So, of the punishment of the crimes of stealing or falsifying a record or process of a Court of the United States, or of perjury in such Court. To punish these offences is certainly conducive to the due administration of justice. But Courts may exist, and may decide the causes brought before them, though such crimes escape punishment.

The baneful influence of this narrow construction on all the operations of the Government, and the absolute

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impracticability of maintaining it without rendering the Government incompetent to its great objects, might be illustrated by numerous examples drawn from the Constitution and from our laws. The good sense of the public has pronounced without hesitation that the power of punishment appertains to sovereignty, and may be exercised, whenever the sovereign has a right to act, as incidental to his Constitutional powers. It is a means for carrying into execution all sovereign powers, and may be used although not indispensably necessary. It is a right incidental to the power, and conducive to its beneficial exercise.

If this limited construction of the word "necessary" must be abandoned in order to punish, whence is derived the rule which would reinstate it when the Government would carry its powers into execution by means not vindictive in their nature? If the word "necessary" means "needful," "requisite," "essential," "conducive to," in order to let in the power of punishment for the infraction of law, why is it not equally comprehensive when required to authorize the use of means which facilitate the execution of the powers of Government, without the infliction of punishment?

In ascertaining the sense in which the word "necessary" is used in this clause of the Constitution, we may derive some aid from that with which it is associated. Congress shall have power "to make all laws which shall be necessary and proper to carry into execution" the powers of the Government. If the word "necessary" was used in that strict and rigorous sense for which the counsel for the State of

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Maryland contend, it would be an extraordinary departure from the usual course of the human mind, as exhibited in composition, to add a word the only possible effect of which is to qualify that strict and rigorous meaning, to present to the mind the idea of some choice of means of legislation not strained and compressed within the narrow limits for which gentlemen contend.

But the argument which most conclusively demonstrates the error of the construction contended for by the counsel for the State of Maryland is founded on the intention of the convention as manifested in the whole clause. To waste time and argument in proving that, without it, Congress might carry its powers into execution would be not much less idle than to hold a lighted taper to the sun. As little can it be required to prove that, in the absence of this clause, Congress would have some choice of means. That it might employ those which, in its judgment, would most advantageously effect the object to be accomplished. That any means adapted to the end, any means which tended directly to the execution of the Constitutional powers of the Government, were in themselves Constitutional. This clause, as construed by the State of Maryland, would abridge, and almost annihilate, this useful and necessary right of the legislature to select its means. That this could not be intended is, we should think, had it not been already controverted, too apparent for controversy.

We think so for the following reasons:

1st. The clause is placed among the powers of Congress, not among the limitations on those powers.

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2d. Its terms purport to enlarge, not to diminish, the powers vested in the Government. It purports to be an additional power, not a restriction on those already granted. No reason has been or can be assigned for thus concealing an intention to narrow the discretion of the National Legislature under words which purport to enlarge it. The framers of the Constitution wished its adoption, and well knew that it would be endangered by its strength, not by its weakness. Had they been capable of using language which would convey to the eye one idea and, after deep reflection, impress on the mind another, they would rather have disguised the grant of power than its limitation. If, then, their intention had been, by this clause, to restrain the free use of means which might otherwise have been implied, that intention would have been inserted in another place, and would have been expressed in terms resembling these. "In carrying into execution the foregoing powers, and all others," &c., "no laws shall be passed but such as are necessary and proper." Had the intention been to make this clause restrictive, it would unquestionably have been so in form, as well as in effect.

The result of the most careful and attentive consideration bestowed upon this clause is that, if it does not enlarge, it cannot be construed to restrain, the powers of Congress, or to impair the right of the legislature to exercise its best judgment in the selection of measures to carry into execution the Constitutional powers of the Government. If no other motive for its insertion can be suggested, a sufficient one is found in the desire to remove all doubts respecting

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the right to legislate on that vast mass of incidental powers which must be involved in the Constitution if that instrument be not a splendid bauble.

We admit, as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the national legislature that discretion with respect to the means by which the powers it confers are to be carried into execution which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are Constitutional. *

That a corporation must be considered as a means not less usual, not of higher dignity, not more requiring a particular specification than other means has been sufficiently proved. If we look to the origin of corporations, to the manner in which they have been framed in that Government from which we have derived most of our legal principles and ideas, or to the uses to which they have been applied, we find no reason to suppose that a Constitution, omitting, and wisely omitting, to enumerate all the means for carrying into execution the great powers vested in Government, ought to have specified this. Had it been intended to grant this power as one which should be distinct and independent, to be exercised in any case whatever, it

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would have found a place among the enumerated powers of the Government. But being considered merely as a means, to be employed only for the purpose of carrying into execution the given powers, there could be no motive for particularly mentioning it.

The propriety of this remark would seem to be generally acknowledged by the universal acquiescence in the construction which has been uniformly put on the 3d section of the 4th article of the Constitution. The power to "make all needful rules and regulations respecting the territory or other property belonging to the United States" is not more comprehensive than the power "to make all laws which shall be necessary and proper for carrying into execution" the powers of the Government. Yet all admit the constitutionality of a Territorial Government, which is a corporate body.

If a corporation may be employed, indiscriminately with other means, to carry into execution the powers of the Government, no particular reason can be assigned for excluding the use of a bank, if required for its fiscal operations. To use one must be within the discretion of Congress if it be an appropriate mode of executing the powers of Government. That it is a convenient, a useful, and essential instrument in the prosecution of its fiscal operations is not now a subject of controversy. All those who have been concerned in the administration of our finances have concurred in representing its importance and necessity, and so strongly have they been felt that Statesmen of the first class, whose previous opinions

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against it had been confirmed by every circumstance which can fix the human judgment, have yielded those opinions to the exigencies of the nation. Under the Confederation, Congress, justifying the measure by its necessity, transcended, perhaps, its powers to obtain the advantage of a bank; and our own legislation attests the universal conviction of the utility of this measure. The time has passed away when it can be necessary to enter into any discussion in order to prove the importance of this instrument as a means to effect the legitimate objects of the Government.

But were its necessity less apparent, none can deny its being an appropriate measure; and if it is, the decree of its necessity, as has been very justly observed, is to be discussed in another place. Should Congress, in the execution of its powers, adopt measures which are prohibited by the Constitution, or should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land. But where the law is not prohibited, and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the decree of its necessity would be to pass the line which circumscribes the judicial department and to tread on legislative ground. This Court disclaims all pretensions to such a power.

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After this declaration, it can scarcely be necessary to say that the existence of State banks can have no possible influence on the question. No trace is to be found in the Constitution of an intention to create a dependence of the Government of the Union on those of the States, for the execution of the great powers assigned to it. Its means are adequate to its ends, and on those means alone was it expected to rely for the accomplishment of its ends. To impose on it the necessity of resorting to means which it cannot control, which another Government may furnish or withhold, would render its course precarious, the result of its measures uncertain, and create a dependence on other Governments which might disappoint its most important designs, and is incompatible with the language of the Constitution. But were it otherwise, the choice of means implies a right to choose a national bank in preference to State banks, and Congress alone can make the election.

After the most deliberate consideration, it is the unanimous and decided opinion of this Court that the act to incorporate the Bank of the United States is a law made in pursuance of the Constitution, and is a part of the supreme law of the land.

The branches, proceeding from the same stock and being conducive to the complete accomplishment of the object, are equally constitutional. It would have been unwise to locate them in the charter, and it would be unnecessarily inconvenient to employ the legislative power in making those subordinate arrangements. The great duties of the bank are prescribed; those duties require branches; and the bank itself

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may, we think, be safely trusted with the selection of places where those branches shall be fixed, reserving always to the Government the right to require that a branch shall be located where it may be deemed necessary.

It being the opinion of the Court that the act incorporating the bank is constitutional, and that the power of establishing a branch in the State of Maryland might be properly exercised by the bank itself, we proceed to inquire:

2. Whether the State of Maryland may, without violating the Constitution, tax that branch?

That the power of taxation is one of vital importance; that it is retained by the States; that it is not abridged by the grant of a similar power to the Government of the Union; that it is to be concurrently exercised by the two Governments -- are truths which have never been denied. But such is the paramount character of the Constitution that its capacity to withdraw any subject from the action of even this power is admitted. The States are expressly forbidden to lay any duties on imports or exports except what may be absolutely necessary for executing their inspection laws. If the obligation of this prohibition must be conceded -- if it may restrain a State from the exercise of its taxing power on imports and exports -- the same paramount character would seem to restrain, as it certainly may restrain, a State from such other exercise of this power as is in its nature incompatible with, and repugnant to, the constitutional laws of the Union. A law absolutely repugnant to another as entirely

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repeals that other as if express terms of repeal were used.

On this ground, the counsel for the bank place its claim to be exempted from the power of a State to tax its operations. There is no express provision for the case, but the claim has been sustained on a principle which so entirely pervades the Constitution, is so intermixed with the materials which compose it, so interwoven with its web, so blended with its texture, as to be incapable of being separated from it without rending it into shreds.

This great principle is that the Constitution and the laws made in pursuance thereof are supreme; that they control the Constitution and laws of the respective States, and cannot be controlled by them. From this, which may be almost termed an axiom, other propositions are deduced as corollaries, on the truth or error of which, and on their application to this case, the cause has been supposed to depend. These are, 1st. That a power to create implies a power to preserve; 2d. That a power to destroy, if wielded by a different hand, is hostile to, and incompatible with these powers to create and to preserve; 3d. That, where this repugnancy exists, that authority which is supreme must control, not yield to that over which it is supreme.

These propositions, as abstract truths, would perhaps never be controverted. Their application to this case, however, has been denied, and both in maintaining the affirmative and the negative, a splendor of eloquence, and strength of argument seldom if ever surpassed have been displayed.

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The power of Congress to create and, of course, to continue the bank was the subject of the preceding part of this opinion, and is no longer to be considered as questionable.

That the power of taxing it by the States may be exercised so as to destroy it is too obvious to be denied. But taxation is said to be an absolute power which acknowledges no other limits than those expressly prescribed in the Constitution, and, like sovereign power of every other description, is intrusted to the discretion of those who use it. But the very terms of this argument admit that the sovereignty of the State, in the article of taxation itself, is subordinate to, and may be controlled by, the Constitution of the United States. How far it has been controlled by that instrument must be a question of construction. In making this construction, no principle, not declared, can be admissible which would defeat the legitimate operations of a supreme Government. It is of the very essence of supremacy to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments as to exempt its own operations from their own influence. This effect need not be stated in terms. It is so involved in the declaration of supremacy, so necessarily implied in it, that the expression of it could not make it more certain. We must, therefore, keep it in view while construing the Constitution.

The argument on the part of the State of Maryland is not that the States may directly resist a law of Congress, but that they may exercise their

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acknowledged powers upon it, and that the Constitution leaves them this right, in the confidence that they will not abuse it. Before we proceed to examine this argument and to subject it to test of the Constitution, we must be permitted to bestow a few considerations on the nature and extent of this original right of taxation, which is acknowledged to remain with the States. It is admitted that the power of taxing the people and their property is essential to the very existence of Government, and may be legitimately exercised on the objects to which it is applicable, to the utmost extent to which the Government may choose to carry it. The only security against the abuse of this power is found in the structure of the Government itself. In imposing a tax, the legislature acts upon its constituents. This is, in general, a sufficient security against erroneous and oppressive taxation.

The people of a State, therefore, give to their Government a right of taxing themselves and their property, and as the exigencies of Government cannot be limited, they prescribe no limits to the exercise of this right, resting confidently on the interest of the legislator

and on the influence of the constituent over their representative to guard them against its abuse. But the means employed by the Government of the Union have no such security, nor is the right of a State to tax them sustained by the same theory. Those means are not given by the people of a particular State, not given by the constituents of the legislature which claim the right to tax them, but by the people of all the States They are given by all,

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for the benefit of all -- and, upon theory, should be subjected to that Government only which belongs to all.

It may be objected to this definition that the power of taxation is not confined to the people and property of a State. It may be exercised upon every object brought within its jurisdiction.

This is true. But to what source do we trace this right? It is obvious that it is an incident of sovereignty, and is coextensive with that to which it is an incident. All subjects over which the sovereign power of a State extends are objects of taxation, but those over which it does not extend are, upon the soundest principles, exempt from taxation. This proposition may almost be pronounced self-evident.

The sovereignty of a State extends to everything which exists by its own authority or is introduced by its permission, but does it extend to those means which are employed by Congress to carry into execution powers conferred on that body by the people of the United States? We think it demonstrable that it does not. Those powers are not given by the people of a single State. They are given by the people of the United States, to a Government whose laws, made in pursuance of the Constitution, are declared to be supreme. Consequently, the people of a single State cannot confer a sovereignty which will extend over them.

If we measure the power of taxation residing in a State by the extent of sovereignty which the people of a single State possess and can confer on its Government, we have an intelligible standard, applicable

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to every case to which the power may be applied. We have a principle which leaves the power of taxing the people and property of a State unimpaired; which leaves to a State the command of all its resources, and which places beyond its reach all those powers which are conferred by the people of the United States on the Government of the Union, and all those means which are given for the purpose of carrying those powers into execution. We have a principle which is safe for the States and safe for the Union. We are relieved, as we ought to be, from clashing sovereignty; from interfering powers; from a repugnancy between a right in one Government to pull down what there is an acknowledged right in another to build up; from the incompatibility of a right in one Government to destroy what there is a right in another to preserve. We are not driven to the perplexing inquiry, so unfit for the judicial department, what degree of taxation is the legitimate use and what degree may amount to the abuse of the power. The attempt to use it on the means employed by the Government of the Union, in pursuance of the Constitution, is itself an abuse because it is the usurpation of a power which the people of a single State cannot give.

We find, then, on just theory, a total failure of this original right to tax the means employed by the Government of the Union, for the execution of its powers. The right never existed, and the question whether it has been surrendered cannot arise.

But, waiving this theory for the present, let us resume the inquiry, whether this power can be exercised

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by the respective States, consistently with a fair construction of the Constitution?

That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one Government a power to control the constitutional measures of another, which other, with respect to those very measures, is declared to be supreme over that which exerts the control, are propositions not to be denied. But all inconsistencies are to be reconciled by the magic of the word CONFIDENCE. Taxation, it is said, does not necessarily and unavoidably destroy. To carry it to the excess of destruction would be an abuse, to presume which would banish that confidence which is essential to all Government.

But is this a case of confidence? Would the people of any one State trust those of another with a power to control the most insignificant operations of their State Government? We know they would not. Why, then, should we suppose that the people of any one State should be willing to trust those of another with a power to control the operations of a Government to which they have confided their most important and most valuable interests? In the Legislature of the Union alone are all represented. The Legislature of

the Union alone, therefore, can be trusted by the people with the power of controlling measures which concern all, in the confidence that it will not be abused. This, then, is not a case of confidence, and we must consider it is as it really is.

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If we apply the principle for which the State of Maryland contends, to the Constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the Government, and of prostrating it at the foot of the States. The American people have declared their Constitution and the laws made in pursuance thereof to be supreme, but this principle would transfer the supremacy, in fact, to the States.

If the States may tax one instrument, employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the custom house; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all the ends of Government. This was not intended by the American people. They did not design to make their Government dependent on the States.

Gentlemen say they do not claim the right to extend State taxation to these objects. They limit their pretensions to property. But on what principle is this distinction made? Those who make it have furnished no reason for it, and the principle for which they contend denies it. They contend that the power of taxation has no other limit than is found in the 10th section of the 1st article of the Constitution; that, with respect to everything else, the power of the States is supreme, and admits of no control. If this be true, the distinction between property and

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other subjects to which the power of taxation is applicable is merely arbitrary, and can never be sustained. This is not all. If the controlling power of the States be established, if their supremacy as to taxation be acknowledged, what is to restrain their exercising control in any shape they may please to give it? Their sovereignty is not confined to taxation; that is not the only mode in which it might be displayed. The question is, in truth, a question of supremacy, and if the right of the States to tax the means employed by the General Government be conceded, the declaration that the Constitution and the laws made in pursuance thereof shall be the supreme law of the land is empty and unmeaning declamation.

In the course of the argument, the Federalist has been quoted, and the opinions expressed by the authors of that work have been justly supposed to be entitled to great respect in expounding the Constitution. No tribute can be paid to them which exceeds their merit; but in applying their opinions to the cases which may arise in the progress of our Government, a right to judge of their correctness must be retained; and to understand the argument, we must examine the proposition it maintains and the objections against which it is directed. The subject of those numbers from which passages have been cited is the unlimited power of taxation which is vested in the General Government. The objection to this unlimited power, which the argument seeks to remove, is stated with fulness and clearness. It is

"that an indefinite power of taxation in the latter (the Government

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of the Union) might, and probably would, in time, deprive the former (the Government of the States) of the means of providing for their own necessities, and would subject them entirely to the mercy of the National Legislature. As the laws of the Union are to become the supreme law of the land; as it is to have power to pass all laws that may be necessary for carrying into execution the authorities with which it is proposed to vest it; the National Government might, at any time, abolish the taxes imposed for State objects upon the pretence of an interference with its own. It might allege a necessity for doing this, in order to give efficacy to the national revenues; and thus, all the resources of taxation might, by degrees, become the subjects of federal monopoly, to the entire exclusion and destruction of the State Governments."

The objections to the Constitution which are noticed in these numbers were to the undefined power of the Government to tax, not to the incidental privilege of exempting its own measures from State taxation. The consequences apprehended from this undefined power were that it would absorb all the objects of taxation, "to the exclusion and destruction of the State Governments." The arguments of the Federalist are intended to prove the fallacy of these apprehensions, not to prove that the Government was incapable of executing any of its powers without exposing the means it employed to the embarrassments of State taxation. Arguments urged against these objections and these apprehensions are to be understood as relating to the points they

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mean to prove. Had the authors of those excellent essays been asked whether they contended for that construction of the Constitution which would place within the reach of the States those measures which the Government might adopt for the execution of its powers, no man who has read their instructive pages will hesitate to admit that their answer must have been in the negative.

It has also been insisted that, as the power of taxation in the General and State Governments is acknowledged to be concurrent, every argument which would sustain the right of the General Government to tax banks chartered by the States, will equally sustain the right of the States to tax banks chartered by the General Government.

But the two cases are not on the same reason. The people of all the States have created the General Government, and have conferred upon it the general power of taxation. The people of all the States, and the States themselves, are represented in Congress, and, by their representatives, exercise this power. When they tax the chartered institutions of the States, they tax their constituents, and these taxes must be uniform. But when a State taxes the operations of the Government of the United States, it acts upon institutions created not by their own constituents, but by people over whom they claim no control. It acts upon the measures of a Government created by others as well as themselves, for the benefit of others in common with themselves. The difference is that which always exists, and always must exist, between the action of the whole on a

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part, and the action of a part on the whole -- between the laws of a Government declared to be supreme, and those of a Government which, when in opposition to those laws, is not supreme.

But if the full application of this argument could be admitted, it might bring into question the right of Congress to tax the State banks, and could not prove the rights of the States to tax the Bank of the United States.

The Court has bestowed on this subject its most deliberate consideration. The result is a conviction that the States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the General Government. This is, we think, the unavoidable consequence of that supremacy which the Constitution has declared.

We are unanimously of opinion that the law passed by the Legislature of Maryland, imposing a tax on the Bank of the United States is unconstitutional and void.

This opinion does not deprive the States of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State. But this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the Government

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of the Union to carry its powers into execution. Such a tax must be unconstitutional.

JUDGMENT. This cause came on to be heard, on the transcript of the record of the Court of Appeals of the State of Maryland, and was argued by counsel; on consideration whereof, it is the opinion of this Court that the act of the Legislature of Maryland is contrary to the Constitution of the United States, and void, and therefore that the said Court of Appeals of the State of Maryland erred, in affirming the judgment of the Baltimore County Court, in which judgment was rendered against James W. McCulloch; but that the said Court of Appeals of Maryland ought to have reversed the said judgment of the said Baltimore County Court, and ought to have given judgment for the said appellant, McCulloch. It is, therefore, adjudged and ordered that the said judgment of the said Court of Appeals of the State of Maryland in this case be, and the same hereby is, reversed and annulled. And this Court, proceeding to render such judgment as the said Court of Appeals should have rendered, it is further adjudged and ordered that the judgment of the said Baltimore County Court be reversed and annulled, and that judgment be entered in the said Baltimore County Court for the said James W. McCulloch.

* See *Montague v. Richardson*, 24 Conn. 348.

Source: <http://supreme.justia.com/us/17/316/case.html>

U.S. Supreme Court Justice Joseph Story, Commentaries on the Constitution 3:§§ 1238--89
(written in 1833)

§ 1238. The plain import of the clause is, that congress shall have all the incidental and instrumental powers, necessary and proper to carry into execution all the express powers. It neither enlarges any power specifically granted; nor is it a grant of any new power to congress. But it is merely a declaration for the removal of all uncertainty, that the means of carrying into execution those, otherwise granted, are included in the grant. Whenever, therefore, a question arises concerning the constitutionality of a particular power, the first question is, whether the power be *expressed* in the constitution. If it be, the question is decided. If it be not *expressed*, the next inquiry must be, whether it is properly an incident to an express power, and necessary to its execution. If it be, then it may be exercised by congress. If not, congress cannot exercise it.

§ 1239. But still a ground of controversy remains open, as to the true interpretation of the terms of the clause; and it has been contested with no small share of earnestness and vigour. What, then, is the true constitutional sense of the words "necessary and proper" in this clause? It has been insisted by the advocates of a rigid interpretation, that the word "necessary" is here used in its close and most intense meaning; so that it is equivalent to *absolutely and indispensably necessary*. It has been said, that the constitution allows only the means, which are *necessary*; not those, which are merely *convenient* for effecting the enumerated powers. If such a latitude of construction be given to this phrase, as to give any non-enumerated power, it will go far to give every one; for there is no one, which ingenuity might not torture into a convenience in some way or other to some one of so long a list of enumerated powers. It would swallow up all the delegated powers, and reduce the whole to one phrase. Therefore it is, that the constitution has restrained them to the *necessary* means; that is to say, to those means, *without which the grant of the power would be nugatory*. A little difference in the degree of convenience cannot constitute the necessity, which the constitution refers to.

§ 1240. The effect of this mode of interpretation is to exclude all choice of means; or, at most, to leave to congress in each case those only, which are most direct and simple. If, indeed, such implied powers, and such only, as can be shown to be indispensably necessary, are within the purview of the clause, there will be no end to difficulties, and the express powers must practically become a mere nullity. It will be found, that the operations of the government, upon any of its powers, will rarely admit of a rigid demonstration of the necessity (in this strict sense) of the particular means. In most cases, various systems or means may be resorted to, to attain the same end; and yet, with respect to each, it may be argued, that it is not constitutional, because it is not indispensable; and the end may be obtained by other means. The consequence of such reasoning would be, that, as no means could be shown to be constitutional, none could be adopted. For instance, congress possess the power to make war, and to raise armies, and incidentally to erect fortifications, and purchase cannon and ammunition, and other munitions of war. But war may be carried on without fortifications, cannon, and ammunition. No particular kind of arms can be shown to be absolutely necessary; because various sorts of arms of different convenience, power, and utility are, or may be resorted to by different nations. What then becomes of the power? Congress has power to borrow money, and to provide for the payment of the public debt; yet no particular method is indispensable to these ends. They may be attained by various means. Congress has power to provide a navy; but no particular size, or form, or equipment of ships is indispensable. The means of providing a naval establishment are very various; and the applications of them admit of infinite shades of opinion, as to their convenience, utility, and necessity. What then is to be done? Are the powers to remain dormant? Would it not be absurd to say, that congress did not possess the choice of means under such circumstances, and ought not to be empowered to select, and use any means, which are in fact conducive to the exercise of the powers granted by the constitution? Take another example; congress has, doubtless, the authority, under the power to regulate commerce, to erect light-houses, beacons, buoys, and public piers, and authorize the employment of pilots. But it cannot be affirmed, that the exercise of these powers is in a strict sense necessary; or that the power to regulate commerce would be nugatory without establishments of this nature. In truth, no particular regulation of commerce can ever be shown to be exclusively and indispensably necessary; and thus we should be driven to admit, that all regulations are within the scope of the power, or that none are. If there be any general principle, which is inherent in the very definition of government, and essential to every step of the progress to be made by that of the United States, it is, that every power, vested in a government, is in its nature sovereign, and includes, by force of the term, a right to employ all the means requisite, and fairly applicable to the attainment of the end of such power; unless they are excepted in the constitution, or are immoral, or are contrary to the essential objects of political society.

§ 1241. There is another difficulty in the strict construction above alluded to, that it makes the constitutional authority depend upon casual and temporary circumstances, which may produce a necessity to-day, and change it tomorrow. This alone shows the fallacy of the reasoning. The expediency of exercising a particular power at a particular time must, indeed, depend on circumstances; but the constitutional right of exercising it must be uniform and invariable; the same today as to-morrow.

§ 1242. Neither can the degree, in which a measure is necessary, ever be a test of the legal right to adopt it. That must be a matter of opinion, (upon which different men, and different bodies may form opposite judgments,) and can only be a test of expediency. The relation between the measure and the end, between the nature of the means employed towards the execution of a power, and the object of that power, must be the criterion of constitutionality; and not the greater or less of necessity or expediency. If the legislature possesses a right of choice as to the means, who can limit that choice? Who is appointed an umpire, or arbiter in cases, where a discretion is confided to a government? The very idea of such a controlling authority in the exercise of its powers is a virtual denial of

the supremacy of the government in regard to its powers. It repeals the supremacy of the national government, proclaimed in the constitution.

§ 1243. It is equally certain, that neither the grammatical, nor the popular sense of the word, "necessary," requires any such construction. According to both, "necessary" often means no more than *needful, requisite, incidental, useful, or conducive to*. It is a common mode of expression to say, that it is necessary for a government, or a person to do this or that thing, when nothing more is intended or understood, than that the interest of the government or person requires, or will be promoted by the doing of this or that thing. Every one's mind will at once suggest to him many illustrations of the use of the word in this sense. To employ the means, necessary to an end, is generally understood, as employing any means calculated to produce the end, and not as being confined to those single means, without which the end would be entirely unattainable.

§ 1244. Such is the character of human language, that no word conveys to the mind in all situations one single definite idea; and nothing is more common, than to use words in a figurative sense. Almost all compositions contain words, which, taken in their rigorous sense, would convey a meaning, different from that, which is obviously intended. It is essential to just interpretation, that many words, which import something excessive, should be understood in a more mitigated sense; in a sense, which common usage justifies. The word "necessary" is of this description. It has not a fixed character peculiar to itself. It admits of all degrees of comparison; and is often connected with other words, which increase or diminish the impression, which the mind receives of the urgency it imports. A thing may be necessary, very necessary, absolutely or indispensably necessary. It may be little necessary, less necessary, or least necessary. To no mind would the same idea be conveyed by any two of these several phrases. The tenth section of the first article of the constitution furnishes a strong illustration of this very use of the word. It contains a prohibition upon any state to "lay any imposts or duties, &c. except what may be *absolutely necessary* for executing its inspection laws." No one can compare this clause with the other, on which we are commenting, without being struck with the conviction, that the word "*absolutely*," here prefixed to "necessary," was intended to distinguish it from the sense, in which, standing alone, it is used in the other.

§ 1245. That the restrictive interpretation must be abandoned, in regard to certain powers of the government, cannot be reasonably doubted. It is universally conceded, that the power of punishment appertains to sovereignty, and may be exercised, whenever the sovereign has a right to act, as incidental to his constitutional powers. It is a means for carrying into execution all sovereign powers, and may be used, although not indispensably necessary. If, then, the restrictive interpretation must be abandoned, in order to justify the constitutional exercise of the power to punish; whence is the rule derived, which would reinstate it, when the government would carry its powers into operation, by means not vindictive in their nature? If the word, "necessary" means *needful, requisite, essential, conducive to*, to let in the power of punishment, why is it not equally comprehensive, when applied to other means used to facilitate the execution of the powers of the government?

§ 1246. The restrictive interpretation is also contrary to a sound maxim of construction, generally admitted, namely, that the powers contained in a constitution of government, especially those, which concern the general administration of the affairs of the country, such as its finances, its trade, and its defence, ought to be liberally expounded in advancement of the public good. This rule does not depend on the particular form of a government, or on the particular demarcations of the boundaries of its powers; but on the nature and objects of government itself. The means, by which national exigencies are provided for, national inconveniences obviated, and national prosperity promoted, are of such infinite variety, extent, and complexity, that there must of necessity be great latitude of discretion in the selection, and application of those means. Hence, consequently, the necessity and propriety of exercising the authorities, entrusted to a government, on principles of liberal construction.

§ 1247. It is no valid objection to this doctrine to say, that it is calculated to extend the powers of the government throughout the entire sphere of state legislation. The same thing may be said, and has been said, in regard to every exercise of power by implication and construction. There is always some chance of error, or abuse of every power; but this furnishes no ground of objection against the power; and certainly no reason for an adherence to the most rigid construction of its terms, which would at once arrest the whole movements of the government. The remedy for any abuse, or misconstruction of the power, is the same, as in similar abuses and misconstructions of the state governments. It is by an appeal to the other departments of the government; and finally to the people, in the exercise of their elective franchises.

§ 1248. There are yet other grounds against the restrictive interpretation derived from the language, and the character of the provision. The language is, that congress shall have power "to make all laws, which shall be *necessary and proper*." If the word "necessary" were used in the strict and rigorous sense contended for, it would be an extraordinary departure from the usual course of the human mind, as exhibited in solemn instruments, to add another word "proper;" the only possible effect of which is to qualify that strict and rigorous meaning, and to present clearly the idea of a choice of means in the course of legislation. If no means can be resorted to, but such as are indispensably necessary, there can be neither sense, nor utility in adding the other word; for the necessity shuts out from view all consideration of the propriety of the means, as contradistinguished from the former. But if the intention was to use the word "necessary" in its more liberal sense, then there is a peculiar fitness in the other word. It has a sense at once admonitory, and directory. It requires, that the means should be, *bonâ fide*, appropriate to the end.

§ 1249. The character of the clause equally forbids any presumption of an intention to use the restrictive interpretation. In the first place, the clause is placed among the powers of congress, and not among the limitations on those powers. In the next place, its terms purport to enlarge, and not to diminish, the powers vested in the government. It purports, on its face, to be an additional power, not a restriction on those already granted. If it does not, in fact, (as seems the true construction,) give any new powers, it affirms the right to use all necessary and proper means to carry into execution the other powers; and thus makes an *express* power, what would otherwise be merely an *implied* power. In either aspect, it is impossible to construe it to be a restriction. If it have any effect, it is to remove the implication of any restriction. If a restriction had been intended, it is impossible, that the framers of the constitution should have concealed it under phraseology, which purports to enlarge, or at least give the most ample scope to the other powers. There was every motive on their part to give point and clearness to every restriction of national power; for they well knew, that the national government would be more endangered in its adoption by its supposed strength, than by its weakness. It is inconceivable, that they should have disguised a restriction upon its powers under the form of a grant of power. They would have sought other terms, and have imposed the restraint by negatives. And what is equally strong, no one, in or out of the state conventions, at the time when the constitution was put upon its deliverance before the people, ever dreamed of, or suggested, that it contained a restriction of power. The whole argument on each side, of attack and of defence, gave it the positive form of an express power, and not of an express restriction.

§ 1250. Upon the whole, the result of the most careful examination of this clause is, that, if it does not enlarge, it cannot be construed to restrain the powers of congress, or to impair the right of the legislature to exercise its best judgment, in the selection of measures to carry into execution the constitutional powers of the national government. The motive for its insertion doubtless was, the desire to remove all possible doubt respecting the right to legislate on that vast mass of incidental powers, which must be involved in the constitution, if that instrument be not a splendid pageant, or a delusive phantom of sovereignty. Let the end be legitimate; let it be within the scope of the constitution; and all means, which are appropriate, which are plainly adapted to the end, and which are not prohibited, but are consistent with the letter and spirit of the instrument, are constitutional.

§ 1251. It may be well, in this connexion, to mention another sort of implied power, which has been called with great propriety a resulting power, arising from the aggregate powers of the national government. It will not be doubted, for instance, that, if the United States should make a conquest of any of the territories of its neighbours, the national government would possess sovereign jurisdiction over the conquered territory. This would, perhaps, rather be a result from the whole mass of the powers of the national government, and from the nature of political society, than a consequence or incident of the powers specially enumerated. It may, however, be deemed, if an incident to any, an incident to the power to make war. Other instances of resulting powers will easily suggest themselves. The United States are nowhere declared in the constitution to be a sovereignty entitled to sue, though jurisdiction is given to the national courts over controversies, to which the United States shall be a party. It is a natural incident, resulting from the sovereignty and character of the national government. So the United States, in their political capacity, have a right to enter into a contract, (although it is not expressly provided for by the constitution,) for it is an incident to their general right of sovereignty, so far as it is appropriate to any of the ends of the government, and within the constitutional range of its powers. So congress possess power to punish offences committed on board of the public ships of war of the government by persons not in the military or naval service of the United States, whether they are in port, or at sea; for the jurisdiction on board of public ships is every where deemed exclusively to belong to the sovereign.

§ 1252. And not only may implied powers, but implied exemptions from state authority, exist, although not expressly provided for by law. The collectors of the revenue, the carriers of the mail, the mint establishment, and all those institutions, which are public in their nature, are examples in point. It has never been doubted, that all, who are employed in them, are protected, while in the line of their duty, from state control; and yet this protection is not expressed in any act of congress. It is incidental to, and is implied in, the several acts, by which those institutions are created; and is preserved to them by the judicial department, as a part of its functions. A contractor for supplying a military post with provisions cannot be restrained from making purchases within a state, or from transporting provisions to the place, at which troops are stationed. He could not be taxed, or fined, or lawfully obstructed, in so doing. These incidents necessarily flow from the supremacy of the powers of the Union, within their legitimate sphere of action.

§ 1253. It would be almost impracticable, if it were not useless, to enumerate the various instances, in which congress, in the progress of the government, have made use of incidental and implied means to execute its powers. They are almost infinitely varied in their ramifications and details. It is proposed, however, to take notice of the principal measures, which have been contested, as not within the scope of the powers of congress, and which may be distinctly traced in the operations of the government, and in leading party divisions.

§ 1254. One of the earliest and most important measures, which gave rise to a question of constitutional power, was the act chartering the bank of the United States in 1791. That question has often since been discussed; and though the measure has been repeatedly sanctioned by congress, by the executive, and by the judiciary, and has obtained the like favour in a great majority of the states, yet it is, up to this very hour, still debated upon constitutional grounds, as if it were still new, and untried. It is impossible, at this time, to treat it, as an open question, unless the constitution is for ever to remain an unsettled text, possessing no permanent attributes, and incapable of having any ascertained sense; varying with every change of doctrine, and of party; and delivered over to interminable doubts. If the constitution is to be only, what the administration of the day may wish it to be; and is to assume any, and all shapes, which may suit the opinions and theories of public men, as they

successively direct the public councils, it will be difficult, indeed, to ascertain, what its real value is. It cannot possess either certainty, or uniformity, or safety. It will be one thing to-day, and another thing to-morrow, and again another thing on each succeeding day. The past will furnish no guide, and the future no security. It will be the reverse of a law; and entail upon the country the curse of that miserable servitude, so much abhorred and denounced, where all is vague and uncertain in the fundamentals of government.

§ 1255. The reasoning, upon which the constitutionality of a national bank is denied, has been already in some degree stated in the preceding remarks. It turns upon the strict interpretation of the clause, giving the auxiliary powers necessary, and proper to execute the other enumerated powers. It is to the following effect: The power to incorporate a bank is not among those enumerated in the constitution. It is known, that the very power, thus proposed, as a means, was rejected, as an end, by the convention, which formed the constitution. A proposition was made in that body, to authorize congress to open canals, and an amendatory one to empower them to create corporations. But the whole was rejected; and one of the reasons of the rejection urged in debate was, that they then would have a power to create a bank, which would render the great cities, where there were prejudices and jealousies on that subject, adverse to the adoption of the constitution. In the next place, all the enumerated powers can be carried into execution without a bank. A bank, therefore, is not *necessary*, and consequently not authorized by this clause of the constitution. It is urged, that a bank will give great facility, or convenience to the collection of taxes. If this were true, yet the constitution allows only the means, which are *necessary*, and not merely those, which are *convenient* for effecting the enumerated powers. If such a latitude of construction were allowed, as to consider convenience, as justifying the use of such means, it would swallow up all the enumerated powers. Therefore, the constitution restrains congress to those means, without which the power would be nugatory.

§ 1256. Nor can its convenience be satisfactorily established. Bank-bills may be a more convenient vehicle, than treasury orders, for the purposes of that department. But a little difference in the degree of convenience cannot constitute the necessity contemplated by the constitution. Besides; the local and state banks now in existence are competent, and would be willing to undertake all the agency required for those very purposes by the government. And if they are able and willing, this establishes clearly, that there can be no necessity for establishing a national bank. If there would ever be a superior conveniency in a national bank, it does not follow, that there exists a power to establish it, or that the business of the country cannot go on very well without it. Can it be thought, that the constitution intended, that for a shade or two of convenience, more or less, congress should be authorized to break down the most ancient and fundamental laws of the states, such as those against mortmain, the laws of alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, and the laws of monopoly? Nothing but a necessity, invincible by any other means, can justify such a prostration of laws, which constitute the pillars of our whole system of jurisprudence. If congress have the power to create one corporation, they may create all sorts; for the power is no where limited; and may even establish monopolies. Indeed this very charter is a monopoly.

§ 1257. The reasoning, by which the constitutionality of the national bank has been sustained, is contained in the following summary. The powers confided to the national government are unquestionably, so far as they exist, sovereign and supreme. It is not, and cannot be disputed, that the power of creating a corporation is one belonging to sovereignty. But so are all other legislative powers; for the original power of giving the law on any subject whatever is a sovereign power. If the national government cannot create a corporation, because it is an exercise of sovereign power, neither can it, for the same reason, exercise any other legislative power. This consideration alone ought to put an end to the abstract inquiry, whether the national government has power to erect a corporation, that is, to give a legal or artificial capacity to one or more persons, distinct from the natural capacity. For, if it be an incident to sovereignty, and it is not prohibited, it must belong to the national government in relation to the objects entrusted to it. The true difference is this; where the authority of a government is general, it can create corporations in all cases; where it is confined to certain branches of legislation, it can create corporations only as to those cases. It cannot be denied, that implied powers may be delegated, as well as express. It follows, that a power to erect corporations may as well be implied, as any other thing, if it be an instrument or means of carrying into execution any specified power. The only question in any case must be, whether it be such an instrument or means, and have a natural relation to any of the acknowledged objects of government. Thus, congress may not erect a corporation for superintending the police of the city of Philadelphia, because they have no authority to regulate the police of that city. But if they possessed the authority to regulate the police of such city, they might, unquestionably, create a corporation for that purpose; because it is incident to the sovereign legislative power to regulate a thing, to employ all the means, which relate to its regulation, to the best and greatest advantage.

§ 1258. A strange fallacy has crept into the reasoning on this subject. It has been supposed, that a corporation is some great, independent thing; and that the power to erect it is a great, substantive, independent power; whereas, in truth, a corporation is but a legal capacity, quality, or means to an end; and the power to erect it is, or may be, an implied and incidental power. A corporation is never the end, for which other powers are exercised; but a means, by which other objects are accomplished. No contributions are made to charity for the sake of an incorporation; but a corporation is created to administer the charity. No seminary of learning is instituted in order to be incorporated; but the corporate character is conferred to subserve the purposes of education. No city was ever built with the sole object of being incorporated; but it is incorporated as affording the best means of being well governed. So a mercantile company is formed with a certain capital for carrying on a particular branch of business. Here, the business to be prosecuted is the end.

The association, in order to form the requisite capital, is the primary means. If an incorporation is added to the association, it only gives it a new quality, an artificial capacity, by which it is enabled to prosecute the business with more convenience and safety. In truth, the power of creating a corporation is never used for its own sake; but for the purpose of effecting something else. So that there is not a shadow of reason to say, that it may not pass as an incident to powers expressly given, as a mode of executing them.

§ 1259. It is true, that among the enumerated powers we do not find that of establishing a bank, or creating a corporation. But we do find there the great powers to lay and collect taxes; to borrow money; to regulate commerce; to declare and conduct war; and to raise and support armies and navies. Now, if a bank be a fit means to execute any or all of these powers, it is just as much implied, as any other means. If it be "necessary and proper" for any of them, how is it possible to deny the authority to create it for such purposes? There is no more propriety in giving this power in *express* terms, than in giving any other incidental powers or means in express terms. If it had been intended to grant this power generally, and to make it a distinct and independent power, having no relation to, but reaching beyond the other enumerated powers, there would then have been a propriety in giving it in express terms, for otherwise it would not exist. Thus, it was proposed in the convention, to give a general power "to grant charters of incorporation;"--to "grant charters of incorporation in cases, where the public good may require them, and the authority of a single state may be incompetent;"--and "to grant letters of incorporation for canals, &c." If either of these propositions had been adopted, there would have been an obvious propriety in giving the power in express terms; because, as to the two former, the power was general and unlimited, and reaching far beyond any of the other enumerated powers; and as to the latter, it might be far more extensive than any incident to the other enumerated powers. But the rejection of these propositions does not prove, that congress in no case, as an incident to the enumerated powers, should erect a corporation; but only, that they should not have a substantive, independent power to erect corporations beyond those powers.

§ 1260. Indeed, it is most manifest, that it never could have been contemplated by the convention, that congress should, in no case, possess the power to erect a corporation. What otherwise would become of the territorial governments, all of which are corporations created by congress? There is no where an express power given to congress to erect them. But under the confederation, congress did provide for their erection, as a resulting and implied right of sovereignty, by the celebrated ordinance of 1787; and congress, under the constitution, have ever since, without question, and with the universal approbation of the nation, from time to time created territorial governments. Yet congress derive this power only by implication, or as necessary and proper, to carry into effect the express power to regulate the territories of the United States. In the convention, two propositions were made and referred to a committee at the same time with the propositions already stated respecting granting of charters, "to dispose of the unappropriated lands of the United States," and "to institute temporary governments for new states arising therein." Both these propositions shared the same fate, as those respecting charters of incorporation. But what would be thought of the argument, built upon this foundation, that congress did not possess the power to erect territorial governments, because these propositions were silently abandoned, or annulled in the convention?

§ 1261. This is not the only case, in which congress may erect corporations. Under the power to accept a cession of territory for the seat of government, and to exercise exclusive legislation therein; no one can doubt, that congress may erect corporations therein, not only public, but private corporations. They have constantly exercised the power; and it has never yet been breathed, that it was unconstitutional. Yet it can be exercised only as an incident to the power of general legislation. And if so, why may it not be exercised, as an incident to any specific power of legislation, if it be a means to attain the objects of such power?

§ 1262. That a national bank is an appropriate means to carry into effect some of the enumerated powers of the government, and that this can be best done by erecting it into a corporation, may be established by the most satisfactory reasoning. It has a relation, more or less direct, to the power of collecting taxes, to that of borrowing money, to that of regulating trade between the states, and to those of raising and maintaining fleets and armies. And it may be added, that it has a most important bearing upon the regulation of currency between the states. It is an instrument, which has been usually applied by governments in the administration of their fiscal and financial operations. And in the present times it can hardly require argument to prove, that it is a convenient, a useful, and an essential instrument in the fiscal operations of the government of the United States. This is so generally admitted by sound and intelligent statesmen, that it would be a waste of time to endeavour to establish the truth by an elaborate survey of the mode, in which it touches the administration of all the various branches of the powers of the government.

§ 1263. In regard to the suggestion, that a proposition was made, and rejected in the convention to confer this very power, what was the precise nature or extent of this proposition, or what were the reasons for refusing it, cannot now be ascertained by any authentic document, or even by any accurate recollection of the members. As far as any document exists, it specifies only canals. If this proves any thing, it proves no more, than that it was thought inexpedient to give a power to incorporate for the purpose of opening canals generally. But very different accounts are given of the import of the proposition, and of the motives for rejecting it. Some affirm, that it was confined to the opening of canals and obstructions of rivers; others, that it embraced banks; and others, that it extended to the power of incorporations generally. Some, again, allege, that it was disagreed to, because it was thought improper to vest in congress a power of erecting corporations; others, because they thought it unnecessary to specify the power; and inexpedient to furnish an additional topic of objection to the constitution. In this state of the matter, no inference whatever can be drawn from it. But, whatever may have been the private intentions of the framers of the constitution, which can rarely be established by the mere fact of their votes,

it is certain, that the true rule of interpretation is to ascertain the public and just intention from the language of the instrument itself, according to the common rules applied to all laws. The people, who adopted the constitution, could know nothing of the private intentions of the framers. They adopted it upon its own clear import, upon its own naked text. Nothing is more common, than for a law to effect more or less, the intention of the persons, who framed it; and it must be judged of by its words and sense, and not by any private intentions of members of the legislature.

§ 1264. In regard to the faculties of the bank, if congress could constitutionally create it, they might confer on it such faculties and powers, as were fit to make it an appropriate means for fiscal operations. They had a right to adapt it in the best manner to its end. No one can pretend, that its having the faculty of holding a capital; of lending and dealing in money; of issuing bank notes; of receiving deposits; and of appointing suitable officers to manage its affairs; are not highly useful and expedient, and appropriate to the purposes of a bank. They are just such, as are usually granted to state banks; and just such, as give increased facilities to all its operations. To say, that the bank might have gone on without this or that faculty, is nothing. Who, but congress, shall say, how few, or how many it shall have, if all are still appropriate to it, as an instrument of government, and may make it more convenient, and more useful in its operations? No man can say, that a single faculty in any national charter is useless, or irrelevant, or strictly improper, that is conducive to its end, as a national instrument. Deprive a bank of its trade and business, and its vital principles are destroyed. Its form may remain, but its substance is gone. All the powers given to the bank are to give efficacy to its functions of trade and business.

§ 1265. As to another suggestion, that the same objects might have been accomplished through the state banks, it is sufficient to say, that no trace can be found in the constitution of any intention to create a dependence on the states, or state institutions, for the execution of its great powers. Its own means are adequate to its end; and on those means it was expected to rely for their accomplishment. It would be utterly absurd to make the powers of the constitution wholly dependent on state institutions. But if state banks might be employed, as congress have a choice of means, they had a right to choose a national bank, in preference to state banks, for the financial operations of the government. Proof, that they might use one means, is no proof, that they cannot constitutionally use another means.

§ 1266. After all, the subject has been settled repeatedly by every department of the government, legislative, executive, and judicial. The states have acquiesced; and a majority have constantly sustained the power. If it is not now settled, it never can be. If it is settled, it would be too much to expect a re-argument, whenever any person may choose to question it.

§ 1267. Another question, which has for a long time agitated the public councils of the nation, is, as to the authority of congress to make roads, canals, and other internal improvements.

§ 1268. So far, as regards the right to appropriate money to internal improvements generally, the subject has already passed under review in considering the power to lay and collect taxes. The doctrine there contended for, which has been in a great measure borne out by the actual practice of the government, is, that congress may appropriate money, not only to clear obstructions to navigable rivers; to improve harbours; to build breakwaters; to assist navigation; to erect forts, light-houses, and piers; and for other purposes allied to some of the enumerated powers; but may also appropriate it in aid of canals, roads, and other institutions of a similar nature, existing under state authority. The only limitations upon the power are those prescribed by the terms of the constitution, that the objects shall be for the common defence, or the general welfare of the Union. The true test is, whether the object be of a local character, and local use; or, whether it be of general benefit to the states. If it be purely local, congress cannot constitutionally appropriate money for the object. But, if the benefit be general, it matters not, whether in point of locality it be in one state, or several; whether it be of large, or of small extent; its nature and character determine the right, and congress may appropriate money in aid of it; for it is then in a just sense for the general welfare.

§ 1269. But it has been contended, that the constitution is not confined to mere appropriations of money; but authorizes congress directly to undertake and carry on a system of internal improvements for the general welfare; wherever such improvements fall within the scope of any of the enumerated powers. Congress may not, indeed, engage in such undertakings merely because they are internal improvements for the general welfare, unless they fall within the scope of the enumerated powers. The distinction between this power, and the power of appropriation is, that in the latter, congress may appropriate to any purpose, which is for the common defence or general welfare; but in the former, they can engage in such undertakings only, as are means, or incidents to its enumerated powers. Congress may, therefore, authorize the making of a canal, as incident to the power to regulate commerce, where such canal may facilitate the intercourse between state and state. They may authorize light-houses, piers, buoys, and beacons to be built for the purposes of navigation. They may authorize the purchase and building of custom-houses, and revenue cutters, and public ware-houses, as incidents to the power to lay and collect taxes. They may purchase places for public uses; and erect forts, arsenals, dock-yards, navy-yards, and magazines, as incidents to the power to make war.

§ 1270. For the same reason congress may authorize the laying out and making of a military road, and acquire a right over the soil for such purposes; and as incident thereto they have a power to keep the road in repair, and prevent all obstructions thereto. But in these, and the like cases, the general jurisdiction of the state over the soil, subject only to the rights of the United States, is not excluded. As, for example, in case of a military road; although a state cannot prevent repairs on the part of the United States, or authorize any

obstructions of the road, its general jurisdiction remains untouched. It may punish all crimes committed on the road; and it retains in other respects its territorial sovereignty over it. The right of soil may still remain in the state, or in individuals, and the right to the easement only in the national government. There is a great distinction between the exercise of a power, excluding altogether state jurisdiction, and the exercise of a power, which leaves the state jurisdiction generally in force, and yet includes, on the part of the national government, a power to preserve, what it has created.

§ 1271. In all these, and other cases, in which the power of congress is asserted, it is so upon the general ground of its being an incidental power; and the course of reasoning, by which it is supported, is precisely the same, as that adopted in relation to other cases already considered. It is, for instance, admitted, that congress cannot authorize the making of a canal, except for some purpose of commerce among the states, or for some other purpose belonging to the Union; and it cannot make a military road, unless it be necessary and proper for purposes of war. To go over the reasoning at large would, therefore, be little more, than a repetition of what has been already fully expounded. The Journal of the Convention is not supposed to furnish any additional lights on the subject, beyond what have been already stated.

§ 1272. The resistance to this extended reach of the national powers turns also upon the same general reasoning, by which a strict construction of the constitution has been constantly maintained. It is said, that such a power is not among those enumerated in the constitution; nor is it implied, as a means of executing any of them. The power to regulate commerce cannot include a power to construct roads and canals, and improve the navigation of watercourses in order to facilitate, promote, and secure such commerce, without a latitude of construction departing from the ordinary import of the terms, and incompatible with the nature of the constitution. The liberal interpretation has been very uniformly asserted by congress; the strict interpretation has not uniformly, but has upon several important occasions been insisted upon by the executive. In the present state of the controversy, the duty of forbearance seems inculcated upon the commentator; and the reader must decide for himself upon his own views of the subject.

§ 1273. Another question has been made, how far congress could make a law giving to the United States a preference and priority of payment of their debts, in cases of the death, or insolvency, or bankruptcy of their debtors, out of their estates. It has been settled, upon deliberate argument, that congress possess such a constitutional power. It is a necessary and proper power to carry into effect the other powers of the government. The government is to pay the debts of the Union; and must be authorized to use the means, which appear to itself most eligible to effect that object. It may purchase, and remit bills for this object; and it may take all those precautions, and make all those regulations, which will render the transmission safe. It may, in like manner, pass all laws to render effectual the collection of its debts. It is no objection to this right of priority, that it will interfere with the rights of the state sovereignties respecting the dignity of debts, and will defeat the measures, which they have a right to adopt to secure themselves against delinquencies on the part of their own revenue or other officers. This objection, if of any avail, is an objection to the powers given by the constitution. The mischief suggested, so far as it can really happen, is the necessary consequence of the supremacy of the laws of the United States on all subjects, to which the legislative power of congress extends.

§ 1274. It is under the same implied authority, that the United States have any right even to sue in their own courts; for an express power is nowhere given in the constitution, though it is clearly implied in that part respecting the judicial power. And congress may not only authorize suits to be brought in the name of the United States, but in the name of any artificial person, (such as the Postmaster-General,) or natural person for their benefit. Indeed, all the usual incidents appertaining to a *personal* sovereign, in relation to contracts, and suing, and enforcing rights, so far as they are within the scope of the powers of the government, belong to the United States, as they do to other sovereigns. The right of making contracts and instituting suits is an incident to the general right of sovereignty; and the United States, being a body politic, may, within the sphere of the constitutional powers confided to it, and through the instrumentality of the proper department, to which those powers are confided, enter into contracts not prohibited by law, and appropriate to the just exercise of those powers; and enforce the observance of them by suits and judicial process.

§ 1275. There are almost innumerable cases, in which the auxiliary and implied powers belonging to congress have been put into operation. But the object of these Commentaries is, rather to take notice of those, which have been the subject of animadversion, than of those, which have hitherto escaped reproof, or have been silently approved.

§ 1276. Upon the ground of a strict interpretation, some extraordinary objections have been taken in the course of the practical operations of the government. The very first act, passed under the government, which regulated the time, form, and manner, of administering the oaths prescribed by the constitution, was denied to be constitutional. But the objection has long since been abandoned. It has been doubted, whether it is constitutional to permit the secretaries to draft bills on subjects connected with their departments, to be presented to the house of representatives for their consideration. It has been doubted, whether an act authorizing the president to lay, regulate, and revoke, embargoes was constitutional. It has been doubted, whether congress have authority to establish a military academy. But these objections have been silently, or practically abandoned.

§ 1277. But the most remarkable powers, which have been exercised by the government, as auxiliary and implied powers, and which, if any, go to the utmost verge of liberal construction, are the laying of an unlimited embargo in 1807, and the purchase of Louisiana in 1803, and its subsequent admission into the Union, as a state. These measures were brought forward, and supported, and carried, by

the known and avowed friends of a strict construction of the constitution; and they were justified at the time, and can be now justified, only upon the doctrines of those, who support a liberal construction of the constitution. The subject has been already hinted at; but it deserves a more deliberate review.

§ 1278. In regard to the acquisition of Louisiana:--The treaty of 1803 contains a cession of the whole of that vast territory by France to the United States, for a sum exceeding eleven millions of dollars. There is a stipulation in the treaty on the part of the United States, that the inhabitants of the ceded territory shall be incorporated into the Union, and admitted, as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States.

§ 1279. It is obvious, that the treaty embraced several very important questions, each of them upon the grounds of a strict construction full of difficulty and delicacy. In the first place, had the United States a constitutional authority to accept the cession and pay for it? In the next place, if they had, was the stipulation for the admission of the inhabitants into the Union, as a state, constitutional, or within the power of congress to give it effect?

§ 1280. There is no pretence, that the purchase, or cession of any foreign territory is within any of the powers expressly enumerated in the constitution. It is no where in that instrument said, that congress, or any other department of the national government, shall have a right to purchase, or accept of any cession of foreign territory. The power itself (it has been said) could scarcely have been in the contemplation of the framers of it. It is, in its own nature, as dangerous to liberty, as susceptible of abuse in its actual application, and as likely as any, which could be imagined, to lead to a dissolution of the Union. If congress have the power, it may unite any foreign territory whatsoever to our own, however distant, however populous, and however powerful. Under the form of a cession, we may become united to a more powerful neighbour or rival; and be involved in European, or other foreign interests, and contests, to an interminable extent. And if there may be a stipulation for the admission of foreign states into the Union, the whole balance of the constitution may be destroyed, and the old states sunk into utter insignificance. It is incredible, that it should have been contemplated, that any such overwhelming authority should be confided to the national government with the consent of the people of the old states. If it exists at all, it is unforeseen, and the result of a sovereignty, intended to be limited, and yet not sufficiently guarded. The very case of the cession of Louisiana is a striking illustration of the doctrine. It admits, by consequence, into the Union an immense territory, equal to, if not greater, than that of all the United States under the peace of 1783. In the natural progress of events, it must, within a short period, change the whole balance of power in the Union, and transfer to the West all the important attributes of the sovereignty of the whole. If, as is well known, one of the strong objections urged against the constitution was, that the original territory of the United States was too large for a national government; it is inconceivable, that it could have been within the intention of the people, that any additions of foreign territory should be made, which should thus double every danger from this source. The treaty-making power must be construed, as confined to objects within the scope of the constitution. And, although congress have authority to admit new states into the firm, yet it is demonstrable, that this clause had sole reference to the territory then belonging to the United States; and was designed for the admission of the states, which, under the ordinance of 1787, were contemplated to be formed within its old boundaries. In regard to the appropriation of money for the purposes of the cession the case is still stronger. If no appropriation of money can be made, except for cases within the enumerated powers, (and this clearly is not one,) how can the enormous sum of eleven millions be justified for this object? If it be said, that it will be "for the common defence, and general welfare" to purchase the territory, how is this reconcilable with the strict construction of the constitution? If congress can appropriate money for one object, because it is deemed for the common defence and general welfare, why may they not appropriate it for all objects of the same sort? If the territory can be purchased, it must be governed; and a territorial government must be created. But where can congress find authority in the constitution to erect a territorial government, since it does not possess the power to erect corporations?

§ 1281. Such were the objections, which have been, and in fact may be, urged against the cession, and the appropriations made to carry the treaty into effect. The friends of the measure were driven to the adoption of the doctrine, that the right to acquire territory was incident to national sovereignty; that it was a resulting power, growing necessarily out of the aggregate powers confided by the federal constitution; that the appropriation might justly be vindicated upon this ground, and also upon the ground, that it was for the common defence and general welfare. In short, there is no possibility of defending the constitutionality of this measure, but upon the principles of the liberal construction, which has been, upon other occasions, so earnestly resisted.

§ 1282. As an incidental power, the constitutional right of the United States to acquire territory would seem so naturally to flow from the sovereignty confided to it, as not to admit of very serious question. The constitution confers on the government of the Union the power of making war, and of making treaties; and it seems consequently to possess the power of acquiring territory either by conquest or treaty. If the cession be by treaty, the terms of that treaty must be obligatory; for it is the law of the land. And if it stipulates for the enjoyment by the inhabitants of the rights, privileges, and immunities of citizens of the United States, and for the admission of the territory into the Union, as a state, these stipulations must be equally obligatory. They are within the scope of the constitutional authority of the government, which has the right to acquire territory, to make treaties, and to admit new states into the Union.

§ 1283. The more recent acquisition of Florida, which has been universally approved, or acquiesced in by all the states, can be maintained only on the same principles; and furnishes a striking illustration of the truth, that constitutions of government require a liberal construction to effect their objects, and that a narrow interpretation of their powers, however it may suit the views of

speculative philosophers, or the accidental interests of political parties, is incompatible with the permanent interests of the state, and subversive of the great ends of all government, the safety and independence of the people.

§ 1284. The other instance of an extraordinary application of the implied powers of the government, above alluded to, is the embargo laid in the year 1807, by the special recommendation of President Jefferson. It was avowedly recommended, as a measure of safety for our vessels, our seamen, and our merchandise from the then threatening dangers from the belligerents of Europe; and it was explicitly stated "to be a measure of precaution called for by the occasion;" and "neither hostile in its character, nor as justifying, or inciting, or leading to hostility with any nation whatever." It was in no sense, then, a war measure. If it could be classed at all, as flowing from, or as an incident to, any of the enumerated powers, it was that of regulating commerce. In its terms, the act provided, that an embargo be, and hereby is, laid on all ships and vessels in the ports, or within the limits or jurisdiction, of the United States, &c. bound to any foreign port or place. It was in its terms unlimited in duration; and could be removed only by a subsequent act of congress, having the assent of all the constitutional branches of the legislature.

§ 1285. No one can reasonably doubt, that the laying of an embargo, suspending commerce for a limited period, is within the scope of the constitution. But the question of difficulty was, whether congress, under the power to regulate commerce with foreign nations, could constitutionally suspend and interdict it wholly for an unlimited period, that is, by a permanent act, having no limitation as to duration, either of the act, or of the embargo. It was most seriously controverted, and its constitutionality denied in the Eastern states of the Union, during its existence. An appeal was made to the judiciary upon the question; and it having been settled to be constitutional by that department of the government, the decision was acquiesced in, though the measure bore with almost unexampled severity, upon the Eastern states; and its ruinous effects can still be traced along their extensive seaboard. The argument was, that the power to regulate did not include the power to annihilate commerce, by interdicting it permanently and entirely with foreign nations. The decision was, that the power of congress was sovereign, relative to commercial intercourse, qualified by the limitations and restrictions contained in the constitution itself. Non-intercourse and Embargo laws are within the range of legislative discretion; and if congress have the power, for purposes of safety, of preparation, or counteraction, to suspend commercial intercourse with foreign nations, they are not limited, as to the duration, any more, than as to the manner and extent of the measure.

§ 1286. That this measure went to the utmost verge of constitutional power, and especially of implied power, has never been denied. That it could not be justified by any, but the most liberal construction of the constitution, is equally undeniable. It was the favourite measure of those, who were generally the advocates of the strictest construction. It was sustained by the people from a belief, that it was promotive of the interests, and important to the safety of the Union.

§ 1287. At the present day, few statesmen are to be found, who seriously contest the constitutionality of the acts respecting either the embargo, or the purchase and admission of Louisiana into the Union. The general voice of the nation has sustained, and supported them. Why, then, should not that general voice be equally respected in relation to other measures of vast public importance, and by many deemed of still more vital interest to the country, such as the tariff laws, and the national bank charter? Can any measures furnish a more instructive lesson, or a more salutary admonition, in the whole history of parties, at once to moderate our zeal, and awaken our vigilance, than those, which stand upon principles repudiated at one time upon constitutional scruples, and solemnly adopted at another time, to subserve a present good, or foster the particular policy of an administration? While the principles of the constitution should be preserved with a most guarded caution, and a most sacred regard to the rights of the states; it is at once the dictate of wisdom, and enlightened patriotism to avoid that narrowness of interpretation, which would dry up all its vital powers, or compel the government (as was done under the confederation,) to break down all constitutional barriers, and trust for its vindication to the people, upon the dangerous political maxim, that the safety of the people is the supreme law, (*salus populi suprema lex;*) a maxim, which might be used to justify the appointment of a dictator, or any other usurpation.

§ 1288. There remain one or two other measures of a political nature, whose constitutionality has been denied; but which, being of a transient character, have left no permanent traces in the constitutional jurisprudence of the country. Reference is here made to the Alien and Sedition laws, passed in 1798, both of which were limited to a short duration, and expired by their own limitation. One (the Alien act) authorized the president to order out of the country such aliens, as he should deem dangerous to the peace and safety of the United States; or should have reasonable grounds to suspect to be concerned in any treasonable, or secret machinations against the government of the United States, under severe penalties for disobedience. The other declared it a public crime, punishable with fine and imprisonment, for any persons unlawfully to combine, and conspire together, with intent to oppose any measure or measures of the United States, &c.; or with such intent, to counsel, advise, or attempt to procure any insurrection, unlawful assembly, or combination; or to write, print, utter, or publish, or cause, or procure to be written, &c., or willingly to assist in writing, &c., any false, scandalous, and malicious writing or writings against the government of the United States, or either house of congress, or the president, with intent to defame them, or to bring them into contempt, or disrepute, or to excite against them the hatred of the people, or to stir up sedition; or to excite any unlawful combination for opposing, or resisting any law, or any lawful act of the president, or to resist, oppose, or defeat any such law or act; or to aid, encourage, or abet any hostile designs of any foreign nations against the United States. It provided, however, that the truth of the writing or libel might be given in evidence; and that the jury, who tried the cause, should have a right to determine the law and the fact, under the direction of the court, as in other cases.

§ 1289. The constitutionality of both the acts was assailed with great earnestness and ability at the time; and was defended with equal masculine vigour. The ground of the advocates, in favour of these laws, was, that they resulted from the right and duty in the government of self-preservation, and the like duty and protection of its functionaries in the proper discharge of their official duties. They were impugned, as not conformable to the letter or spirit of the constitution; and as inconsistent in their principles with the rights of citizens, and the liberty of the press. The Alien act was denounced, as exercising a power not delegated by the constitution; as uniting legislative and judicial functions, with that of the executive; and by this Union as subverting the general principles of free government, and the particular organization and positive provisions of the constitution. It was added, that the Sedition act was open to the same objection, and was expressly forbidden by one of the amendments of the constitution, on which there will be occasion hereafter to comment. At present it does not seem necessary to present more than this general outline, as the measures are not likely to be renewed; and as the doctrines, on which they are maintained, and denounced, are not materially different from those, which have been already considered.

The Founders' Constitution

Volume 3, Article 1, Section 8, Clause 18, Document 21

http://press-pubs.uchicago.edu/founders/documents/a1_8_18s21.html

The University of Chicago Press

Story, Joseph. *Commentaries on the Constitution of the United States*. 3 vols. Boston, 1833.

Source: http://press-pubs.uchicago.edu/founders/documents/a1_8_18s21.html



President James Monroe is seen discussing with his advisors the policy later known as the Monroe Doctrine. From left to right: Secretary of State John Quincy Adams, Secretary of the Treasury William H. Crawford, Attorney General William Wirt, President Monroe (standing), Secretary of War John C. Calhoun, Secretary of the Navy Samuel Southard, and Postmaster General John McLean.

Report on a National Bank (December 13, 1790)

1790.]

NATIONAL BANK.

67

and twelve months, whenever the amount shall exceed five hundred dollars: Provided, that the credit shall in no case extend beyond the period of two years, originally allowed for the entire sum. If the duties on the whole quantity deposited shall not have been paid, or secured to be paid, before the expiration of that time, it shall be lawful for the proper officer to cause a sale to be made of so much as shall be sufficient to discharge what shall remain unsatisfied. In every case, it shall be at the option of the party applying for the permit, either to pay the amount of duties on the quantity to be delivered, or to give bond for it, with one or more sureties, to the satisfaction of the officer whose province it shall be to grant the permits.

If the deliveries are to be made for exportation, the permits to be granted upon bond being entered into, to secure and ascertain the exportation. This may require some alterations of form, in the manner of proceeding, relatively to the exportation of this article.

All teas to be landed under the care of the inspectors of the revenue; the chests; and other packages containing them, to be marked; and certificates, which shall accompany them, be granted, as in the case of distilled spirits.

To these more direct expedients for the support of public credit, the institution of a national bank presents itself, as a necessary auxiliary. This the Secretary regards as an indispensable engine in the administration of the finances. To present this important object in a more distinct and more comprehensive light, he has concluded to make it the subject of a separate report.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

Estimate of the probable product of the funds proposed in the annexed report.

4,000,000 gallons of distilled spirits, imported from foreign countries, at 8 cents per gallon,	\$ 320,000 00
3,500,000 gallons of spirits, distilled in the United States, from foreign materials, at 11 cts. per gallon,	385,000 00
3,000,000 gallons of spirits, distilled from materials of the United States, at 9 cents per gallon,	270,000 00
Total dollars,	\$ 975,000 00
Deduct for drawbacks, and expense of collecting, 10 per cent. -	97,500 00
Nett product,	\$ 877,500 00

1st CONGRESS.]

No. 18.

[3d Session.

NATIONAL BANK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DEC. 14, 1790.

TREASURY DEPARTMENT, December 13th, 1790.

In obedience to the order of the House of Representatives, of the ninth day of August last, requiring the Secretary of the Treasury to prepare and report, on this day, such further provision as may, in his opinion, be necessary for establishing the public credit, the said Secretary further respectfully reports:

That, from a conviction (as suggested in his report herewith presented*) that a National Bank is an institution of primary importance to the prosperous administration of the finances, and would be of the greatest utility in the operations connected with the support of the public credit, his attention has been drawn to devising the plan of such an institution, upon a scale which will entitle it to the confidence, and be likely to render it equal to the exigencies of the public.

Previously to entering upon the detail of this plan, he entreats the indulgence of the House towards some preliminary reflections naturally arising out of the subject, which he hopes will be deemed neither useless nor out of place. Public opinion being the ultimate arbiter of every measure of government, it can scarcely appear improper, in deference to that, to accompany the origination of any new proposition with explanations, which the superior information of those to whom it is immediately addressed, would render superfluous.

It is a fact, well understood, that public banks have found admission and patronage among the principal and most enlightened commercial nations. They have successively obtained in Italy, Germany, Holland, England, and France, as well as in the United States. And it is a circumstance which cannot but have considerable weight, in a candid estimate of their tendency, that, after an experience of centuries, there exists not a question about their utility in the countries in which they have been so long established. Theorists and men of business unite in the acknowledgment of it.

Trade and industry, wherever they have been tried, have been indebted to them for important aid. And government has been repeatedly under the greatest obligations to them in dangerous and distressing emergencies. That of the United States, as well in some of the most critical conjunctures of the late war, as since the peace, has received assistance from those established among us, with which it could not have dispensed.

With this twofold evidence before us, it might be expected that there would be a perfect union of opinions in their favor. Yet doubts have been entertained; jealousies and prejudices have circulated; and, though the experiment is every day dissipating them, within the spheres in which effects are best known, yet there are still persons by whom they have not been entirely renounced. To give a full and accurate view of the subject, would be to make a treatise of a report; but there are certain aspects in which it may be cursorily exhibited, which may perhaps conduce to a just impression of its merits. These will involve a comparison of the advantages, with the disadvantages, real or supposed, of such institutions.

The following are among the principal advantages of a Bank:

First. The augmentation of the active or productive capital of a country. Gold and silver, when they are employed merely as the instruments of exchange and alienation, have been not improperly denominated dead stock; but when deposited in banks, to become the basis of a paper circulation, which takes their character and place, as the signs or representatives of value, they then acquire life, or, in other words, an active and productive quality. This idea, which appears rather subtle and abstract, in a general form, may be made obvious and palpable, by entering into a few particulars. It is evident, for instance, that the money which a merchant keeps in his chest, waiting for a favorable opportunity to employ it, produces nothing till that opportunity arrives. But if, instead of locking it up in this manner, he either deposits it in a bank, or invests it in the stock of a bank, it yields a profit during the interval,

*See ante, No. 17.

in which he partakes, or not; according to the choice he may have made of being a depositor or a proprietor; and when any advantageous speculation offers, in order to be able to embrace it, he has only to withdraw his money, if a depositor, or, if a proprietor, to obtain a loan from the bank, or to dispose of his stock—an alternative seldom or never attended with difficulty, when the affairs of the institution are in a prosperous train. His money, thus deposited or invested, is a fund upon which himself and others can borrow to a much larger amount. It is a well established fact, that banks in good credit, can circulate a far greater sum than the actual quantum of their capital in gold and silver. The extent of the possible excess seems indeterminate; though it has been conjecturally stated at the proportions of two and three to one. This faculty is produced in various ways. 1st. A great proportion of the notes which are issued, and pass current as cash, are indefinitely suspended in circulation, from the confidence which each holder has, that he can, at any moment, turn them into gold and silver. 2dly. Every loan which a bank makes, is, in its first shape, a credit given to the borrower on its books, the amount of which it stands ready to pay, either in its own notes, or in gold or silver, at his option. But, in a great number of cases, no actual payment is made in either. The borrower frequently, by a check or order, transfers his credit to some other person, to whom he has a payment to make; who, in his turn, is as often content with a similar credit, because he is satisfied that he can, whenever he pleases, either convert it into cash, or pass it to some other hand, as an equivalent for it. And in this manner the credit keeps circulating, performing in every stage the office of money, till it is extinguished by a discount with some person who has a payment to make to the bank, to an equal or greater amount. Thus large sums are lent and paid, frequently through a variety of hands, without the intervention of a single piece of coin. 3dly. There is always a large quantity of gold and silver in the repositories of the bank, besides its own stock, which is placed there, with a view partly to its safe keeping, and partly to the accommodation of an institution, which is itself a source of general accommodation. These deposits are of immense consequence in the operations of a bank. Though liable to be withdrawn at any moment, experience proves, that the money so much oftener changes proprietors than place, and that what is drawn out is generally so speedily replaced, as to authorize the counting upon the sums deposited, as an *effective fund*, which, concurring with the stock of the bank, enables it to extend its loans, and to answer all the demands for coin, whether in consequence of those loans, or arising from the occasional return of its notes.

These different circumstances explain the manner in which the ability of a bank to circulate a greater sum than its actual capital in coin is acquired. This, however, must be gradual, and must be preceded by a firm establishment of confidence—a confidence which may be bestowed on the most rational grounds, since the excess in question will always be bottomed on good security of one kind or another. This, every well conducted bank carefully requires, before it will consent to advance either its money or its credit, and where there is an auxiliary capital, (as will be the case in the plan hereafter submitted) which, together with the capital in coin, define the boundary that shall not be exceeded by the engagements of the bank, the security may, consistently with all the maxims of a reasonable circumspection, be regarded as complete.

The same circumstances illustrate the truth of the position, that it is one of the properties of banks to increase the active capital of a country. This, in other words, is the sum of them: the money of one individual, while he is waiting for an opportunity to employ it, by being either deposited in the bank for safe keeping, or invested in its stock, is in a condition to administer to the wants of others, without being put out of his own reach when occasion presents. This yields an extra profit, arising from what is paid for the use of his money by others, when he could not himself make use of it, and keeps the money itself in a state of incessant activity. In the almost infinite vicissitudes and competitions of mercantile enterprise, there never can be danger of an intermission of demand, or that the money will remain for a moment idle in the vaults of the bank. This additional employment given to money, and the faculty of a bank to lend and circulate a greater sum than the amount of its stock in coin, are, to all the purposes of trade and industry, an absolute increase of capital. Purchases and undertakings, in general, can be carried on by any given sum of bank paper or credit, as effectually as by an equal sum of gold and silver. And thus, by contributing to enlarge the mass of industrious and commercial enterprise, banks become nurseries of national wealth—a consequence as satisfactorily verified by experience, as it is clearly deducible in theory.

Secondly. Greater facility to the Government, in obtaining pecuniary aids, especially in sudden emergencies. This is another, and an undisputed advantage of public banks—one which, as already remarked, has been realized in signal instances among ourselves. The reason is obvious; the capitals of a great number of individuals are, by this operation, collected to a point, and placed under one direction. The mass formed by this union, is, in a certain sense, magnified by the credit attached to it; and while this mass is always ready, and can at once be put in motion, in aid of the Government, the interest of the bank to afford that aid, independent of regard to the public safety and welfare, is a sure pledge for its disposition to go as far in its compliances as can in prudence be desired. There is, in the nature of things, as will be more particularly noticed in another place, an intimate connexion of interest between the Government and the bank of a nation.

Thirdly. The facilitating of the payment of taxes. This advantage is produced in two ways. Those who are in a situation to have access to the bank, can have the assistance of loans, to answer, with punctuality, the public calls upon them. This accommodation has been sensibly felt in the payment of the duties heretofore laid by those who reside where establishments of this nature exist. This, however, though an extensive, is not an universal benefit. The other way in which the effect here contemplated is produced, and in which the benefit is general, is the increasing of the quantity of circulating medium, and the quickening of circulation. The manner in which the first happens, has already been traced. The last may require some illustration. When payments are to be made between different places, having an intercourse of business with each other, if there happen to be no private bills at market, and there are no bank notes which have a currency in both, the consequence is, that coin must be remitted. This is attended with trouble, delay, expense, and risk. If, on the contrary, there are bank notes current in both places, the transmission of these by the post, or any other speedy or convenient conveyance, answers the purpose; and these again, in the alternations of demand, are frequently returned, very soon after, to the place from whence they were first sent: whence the transportation and re-transportation of the metals are obviated, and a more convenient and more expeditious medium of payment is substituted. Nor is this all; the metals, instead of being suspended from their usual functions during this process of vibration from place to place, continue in activity, and administer still to the ordinary circulation, which, of course, is prevented from suffering either diminution or stagnation. These circumstances are additional causes of what, in a practical sense, or to the purposes of business, may be called greater plenty of money. And it is evident, that whatever enhances the quantity of circulating money, adds to the ease with which every industrious member of the community may acquire that portion of it of which he stands in need, and enables him the better to pay his taxes, as well as to supply his other wants. Even where the circulation of the bank paper is not general, it must still have the same effect, though in a less degree. For, whatever furnishes additional supplies to the channels of circulation, in one quarter, naturally contributes to keep the streams fuller elsewhere. This last view of the subject serves both to illustrate the position that banks tend to facilitate the payment of taxes, and to exemplify their utility to business of every kind in which money is an agent.

It would be to intrude too much on the patience of the House, to prolong the details of the advantages of banks; especially, as all those which might still be particularized, are readily to be inferred as consequences from those which have been enumerated. Their disadvantages, real or supposed, are now to be reviewed. The most serious of the charges which have been brought against them, are,

That they serve to increase usury:

from other, or partial, or temporary causes, are not inherent in the nature and permanent tendency of such institutions, or are more than counterbalanced by opposite advantages. This survey shall be had, in the order in which the charges have been stated. The first of them, is—

That banks serve to increase usury.

It is a truth, which ought not to be denied, that the method of conducting business, which is essential to bank operations, has, among us, in particular instances, given occasion to usurious transactions. The punctuality in payments, which they necessarily exact, has sometimes obliged those who have adventured beyond both their capital and their credit, to procure money at any price, and, consequently, to resort to usurers for aid.

But experience and practice gradually bring a cure to this evil. A general habit of punctuality among traders, is the natural consequence of the necessity of observing it with the bank—a circumstance which, itself, more than compensates for any occasional ill which may have sprung from that necessity, in the particular under consideration. As far, therefore, as traders depend on each other for pecuniary supplies, they can calculate their expectations with greater certainty; and are in proportionally less danger of disappointments, which might compel them to have recourse to so pernicious an expedient as that of borrowing at usury; the mischiefs of which, after a few examples, naturally inspire great care, in all but men of desperate circumstances, to avoid the possibility of being subjected to them. One, and not the least of these evils, incident to the use of that expedient, if the fact be known, or even strongly suspected, is loss of credit with the bank itself.

The directors of a bank, too, though, in order to extend its business and its popularity, in the infancy of an institution, they may be tempted to go further in accommodation than the strict rules of prudence will warrant, grow more circumspect, of course, as its affairs become better established, and as evils of too great facility are experimentally demonstrated. They become more attentive to the situation and conduct of those with whom they deal; they observe more narrowly their operations and pursuits; they economise the credit they give to those of suspicious solidity; they refuse it to those whose career is more manifestly hazardous. In a word, in the course of practice, from the very nature of things, the interest will make it the policy of a bank to succor the wary and industrious; to discredit the rash and unthrifty; to discountenance both usurious lenders and usurious borrowers.

There is a leading view, in which the tendency of banks will be seen to be to abridge, rather than to promote usury. This relates to their property of increasing the quantity and quickening the circulation of money. If it be evident, that usury will prevail or diminish, according to the proportion which the demand for borrowing bears to the quantity of money at market to be lent; whatever has the property just mentioned, whether it be in the shape of paper or coin, by contributing to render the supply more equal to the demand, must tend to counteract the progress of usury.

But bank lending, it is pretended, is an impediment to other kinds of lending; which, by confining the resource of borrowing to a particular class, leaves the rest of the community more destitute, and, therefore, more exposed to the extortions of usurers. As the profits of bank stock exceed the legal rate of interest, the possessors of money, it is urged, prefer investing it in that article, to lending it at this rate; to which, there are the additional motives of a more prompt command of the capital, and of more frequent and exact returns; without trouble or perplexity in the collection. This constitutes the second charge which has been enumerated.

The fact on which this charge rests, is not to be admitted without several qualifications; particularly in reference to the state of things in this country.

First. The great bulk of the stock of a bank will consist of the funds of men in trade, among ourselves, and moneyed foreigners; the former of whom could not spare their capitals out of their reach, to be invested in loans for long periods, on mortgages or personal security; and the latter of whom would not be willing to be subjected to the casualties, delays, and embarrassments, of such a disposition of their money in a distant country.

Secondly. There will always be a considerable proportion of those who are properly the money lenders of a country, who, from that spirit of caution which usually characterises this description of men, will incline rather to vest their funds in mortgages on real estate, than in the stock of a bank, which they are apt to consider as a more precarious security.

These considerations serve, in a material degree, to narrow the foundation of the objection, as to the point of fact. But there is a more satisfactory answer to it. The effect supposed, as far as it has existence, is temporary. The reverse of it takes place in the general and permanent operation of the thing.

The capital of every public bank, will, of course, be restricted within a certain defined limit. It is the province of legislative prudence so to adjust this limit, that, while it will not be too contracted for the demand which the course of business may create, and for the security which the public ought to have for the solidity of the paper which may be issued by the bank, it will still be within the compass of the pecuniary resources of the community; so that there may be an easy practicability of completing the subscriptions to it. When this is once done, the supposed effect, of necessity, ceases. There is then no longer room for the investment of any additional capital. Stock may, indeed, change hands, by one person selling and another buying; but the money which the buyer takes out of the common mass to purchase the stock, the seller receives and restores to it. Hence, the future surplusses which may accumulate must take their natural course, and lending at interest must go on as if there were no such institution.

It must, indeed, flow in a more copious stream. The bank furnishes an extraordinary supply for borrowers, within its immediate sphere. A larger supply consequently remains for borrowers elsewhere. In proportion as the circulation of the bank is extended, there is an augmentation of the aggregate mass of money for answering the aggregate mass of demand. Hence greater facility in obtaining it for every purpose.

It ought not to escape without a remark, that, as far as the citizens of other countries become adventurers in the bank, there is a positive increase of the gold and silver of the country. It is true, that, from this, a half yearly rent is drawn back, accruing from the dividends upon the stock. But as this rent arises from the employment of the capital by our own citizens, it is probable that it is more than replaced by the profits of that employment. It is also likely that a part of it is, in the course of trade, converted into the products of our country: and it may even prove an incentive, in some cases, to emigration to a country in which the character of citizen is as easy to be acquired as it is estimable and important. This view of the subject furnishes an answer to an objection which has been deduced from the circumstance here taken notice of, namely, the income resulting to foreigners from the part of the stock owned by them, which has been represented as tending to drain the country of its specie. In this objection, the original investment of the capital, and the constant use of it afterwards, seem both to have been overlooked.

That banks furnish temptations to overtrading, is the third of the enumerated objections. This must mean, that, by affording additional aids to mercantile enterprise, they induce the merchant sometimes to adventure beyond the prudent or salutary point. But the very statement of the thing shows that the subject of the charge is an occasional ill incident to a general good. Credit of every kind, (as a species of which only can bank lending have the effect

The practice of giving fictitious credit to improper persons, is one of those evils which experience, guided by interest, speedily corrects. The bank itself is in so much jeopardy of being a sufferer by it, that it has the strongest of all inducements to be on its guard. It may not only be injured immediately, by the delinquencies of the persons to whom such credit is given, but eventually by the incapacities of others, whom their impositions or failures may have ruined.

Nor is there much danger of a bank's being betrayed into this error from want of information. The directors themselves, being, for the most part, selected from the class of traders, are to be expected to possess, individually, an accurate knowledge of the characters and situations of those who come within that description. And they have, in addition to this, the course of dealing of the persons themselves with the bank, to assist their judgment, which is, in most cases, a good index of the state in which those persons are. The artifices and shifts, which those in desperate or declining circumstances are obliged to employ, to keep up the countenance which the rules of the bank require, and the train of their connexions, are so many prognostics, not difficult to be interpreted, of the fate which awaits them. Hence, it not unfrequently happens, that banks are the first to discover the unsoundness of such characters, and, by withholding credit, to announce to the public that they are not entitled to it.

If banks, in spite of every precaution, are sometimes betrayed into giving a false credit to the persons described, they more frequently enable honest and industrious men, of small, or, perhaps, of no capital, to undertake and prosecute business with advantage to themselves and to the community; and assist merchants, of both capital and credit, who meet with fortuitous and unforeseen shocks, which might, without such helps, prove fatal to them and to others, to make head against their misfortunes, and finally to retrieve their affairs—circumstances which form no inconsiderable encomium on the utility of banks.

But the last and heaviest charge is still to be examined: this is, that banks tend to banish the gold and silver of the country.

The force of this objection rests upon their being an engine of paper credit, which, by furnishing a substitute for the metals, is supposed to promote their exportation. It is an objection, which, if it has any foundation, lies not against banks peculiarly, but against every species of paper credit.

The most common answer given to it is, that the thing supposed is of little or no consequence; that it is immaterial what serves the purpose of money, whether paper, or gold and silver; that the effect of both upon industry is the same; and that the intrinsic wealth of a nation is to be measured, not by the abundance of the precious metals contained in it, but by the quantity of the productions of its labor and industry.

This answer is not destitute of solidity, though not entirely satisfactory. It is certain, that the vivification of industry, by a full circulation, with the aid of a proper and well regulated paper credit, may more than compensate for the loss of a part of the gold and silver of a nation, if the consequence of avoiding that loss should be a scanty or defective circulation.

But the positive and permanent increase or decrease of the precious metals in a country, can hardly ever be a matter of indifference. As the commodity taken in lieu of every other, it is a species of the most effective wealth; and as the money of the world, it is of great concern to the State, that it possess a sufficiency of it to face any demands which the protection of its external interests may create.

The objection seems to admit of another and a more conclusive answer, which controverts the fact itself. A nation that has no mines of its own, must derive the precious metals from others; generally speaking, in exchange for the products of its labor and industry. The quantity it will possess, will, therefore, in the ordinary course of things, be regulated by the favorable or unfavorable balance of its trade; that is, by the proportion between its abilities to supply foreigners, and its wants of them; between the amount of its exportations and that of its importations. Hence, the state of its agriculture and manufactures, the quantity and quality of its labor and industry, must, in the main, influence and determine the increase or decrease of its gold and silver.

If this be true, the inference seems to be, that well constituted banks favor the increase of the precious metals. It has been shewn that they augment, in different ways, the active capital of a country. This it is which generates employment; which animates and expands labor and industry. Every addition which is made to it, by contributing to put in motion a greater quantity of both, tends to create a greater quantity of the products of both; and, by furnishing more materials for exportation, conduces to a favorable balance of trade, and, consequently, to the introduction and increase of gold and silver.

This conclusion appears to be drawn from solid premises. There are, however, objections to be made to it.

It may be said, that, as bank paper affords a substitute for specie, it serves to counteract that rigorous necessity for the metals, as a medium of circulation, which, in the case of a wrong balance, might restrain, in some degree, their exportation; and it may be added, that, from the same cause, in the same case, it would retard those economical and parsimonious reforms in the manner of living, which the scarcity of money is calculated to produce, and which might be necessary to rectify such wrong balance.

There is, perhaps, some truth in both these observations; but they appear to be of a nature rather to form exceptions to the generality of the conclusion, than to overthrow it. The state of things in which the *absolute exigencies* of circulation can be supposed to resist, with any effect, the urgent demands for specie which a wrong balance of trade may occasion, presents an *extreme case*. And a situation in which a too expensive manner of living of a community, compared with its means, can stand in need of a corrective, from distress or necessity, is one which, perhaps, rarely results but from extraordinary and adventitious causes: such, for example, as a national revolution; which unsettles all the established habits of the people, and inflames the appetite for extravagance, by the illusions of an ideal wealth, engendered by the continual multiplication of a depreciating currency, or some similar cause. There is a good reason to believe, that, where the laws are wise and well executed, and the inviolability of property and contracts maintained, the economy of a people will, in the general course of things, correspond with its means.

The support of industry is, probably, in every case, of more consequence towards correcting a wrong balance of trade, than any practicable retrenchments in the expenses of families or individuals; and the stagnation of it would be likely to have more effect in prolonging, than any such savings in shortening, its continuance. That stagnation is a natural consequence of an inadequate medium, which, without the aid of bank circulation, would, in the cases supposed, be severely felt.

It also deserves notice, that, as the circulation is always in a compound ratio to the fund upon which it depends, and to the demand for it, and as that fund is itself affected by the exportation of the metals, there is no danger of its being overstocked, as in the case of paper issued at the pleasure of the Government, or of its preventing the consequences of any unfavorable balance from being sufficiently felt to produce the reforms alluded to, as far as circumstances may require and admit.

Nothing can be more fallible than the comparisons which have been made between different countries, to illustrate the truth of the position under consideration. The comparative quantity of gold and silver in different countries, depends upon an infinite variety of facts and combinations, all of which ought to be known, in order to judge

tion of the species of wealth in question. It is evident that gold and silver may often be employed in procuring commodities abroad, which, in a circuitous commerce, replace the original fund, with considerable addition. But it is not to be inferred, from this facility given to temporary exportation, that banks, which are so friendly to trade and industry, are, in their general tendency, inimical to the increase of the precious metals.

These several views of the subject appear sufficient to impress a full conviction of the utility of banks, and to demonstrate that they are of great importance, not only in relation to the administration of the finances, but in the general system of the political economy.

The judgment of many concerning them, has, no doubt, been perplexed, by the misinterpretation of appearances which were to be ascribed to other causes. The general devastation of personal property, occasioned by the late war, naturally produced, on the one hand, a great demand for money, and, on the other, a great deficiency of it to answer the demand. Some injudicious laws, which grew out of the public distresses, by impairing confidence, and causing a part of the inadequate sum in the country to be locked up, aggravated the evil. The dissipated habits contracted by many individuals during the war, which, after the peace, plunged them into expenses beyond their incomes; the number of adventurers without capital, and, in many instances, without information, who at that epoch rushed into trade, and were obliged to make any sacrifices to support a transient credit; the employment of considerable sums in speculations upon the public debt, which, from its unsettled state, was incapable of becoming itself a substitute: all these circumstances concurring, necessarily led to usurious borrowing, produced most of the inconveniences, and were the true causes of most of the appearances, which, where banks were established, have been by some erroneously placed to their account—a mistake which they might easily have avoided by turning their eyes towards places where there were none, and where, nevertheless, the same evils would have been perceived to exist, even in a greater degree than where those institutions had obtained.

These evils have either ceased, or been greatly mitigated. Their more complete extinction may be looked for from that additional security to property which the constitution of the United States happily gives; (a circumstance of prodigious moment in the scale, both of public and private prosperity) from the attraction of foreign capital, under the auspices of that security, to be employed upon objects, and in enterprises, for which the state of this country opens a wide and inviting field; from the consistency and stability which the public debt is fast acquiring, as well in the public opinion at home and abroad, as, in fact, from the augmentation of capital which that circumstance and the quarter-yearly payment of interest will afford; and from the more copious circulation which will be likely to be created by a well constituted national bank.

The establishment of banks in this country seems to be recommended by reasons of a peculiar nature. Previously to the Revolution, circulation was in a great measure carried on by paper emitted by the several local governments. In Pennsylvania alone, the quantity of it was near a million and a half of dollars. This auxiliary may be said to be now at an end. And it is generally supposed that there has been, for some time past, a deficiency of circulating medium. How far that deficiency is to be considered as real or imaginary, is not susceptible of demonstration; but there are circumstances and appearances, which, in relation to the country at large, countenance the supposition of its reality.

The circumstances are, besides the fact just mentioned respecting paper emissions, the vast tracts of waste land, and the little advanced state of manufactures. The progressive settlement of the former, while it promises ample retribution, in the generation of future resources, diminishes or obstructs, in the mean time, the *active* wealth of the country. It not only draws off a part of the circulating money, and places it in a more passive state, but it diverts, into its own channels, a portion of that species of labor and industry which would otherwise be employed in furnishing materials for foreign trade, and which, by contributing to a favorable balance, would assist the introduction of specie. In the early periods of new settlements, the settlers not only furnish no surplus for exportation, but they consume a part of that which is produced by the labor of others. The same thing is a cause that manufactures do not advance, or advance slowly. And notwithstanding some hypotheses to the contrary, there are many things to induce a suspicion, that the precious metals will not abound in any country which has not mines, or variety of manufactures. They have been sometimes acquired by the sword; but the modern system of war has expelled this resource, and it is one upon which it is to be hoped the United States will never be inclined to rely.

The appearances alluded to, are, greater prevalence of direct barter, in the more interior districts of the country, which, however, has been for some time past gradually lessening; and greater difficulty, generally, in the advantageous alienation of improved real estate; which, also, has of late diminished, but is still seriously felt in different parts of the Union. The difficulty of getting money, which has been a general complaint, is not added to the number; because it is the complaint of all times, and one in which imagination must ever have too great scope to permit an appeal to it.

If the supposition of such a deficiency be in any degree founded, and some aid to circulation be desirable, it remains to inquire what ought to be the nature of that aid.

The emitting of paper money by the authority of Government is wisely prohibited to the individual States, by the national constitution; and the spirit of that prohibition ought not to be disregarded by the Government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable to the like emissions by the States, separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the Government will be shown in never trusting itself with the use of so seducing and dangerous an expedient. In times of tranquillity, it might have no ill consequence; it might even perhaps be managed in a way to be productive of good; but, in great and trying emergencies, there is almost a moral certainty of its becoming mischievous. The stamping of paper is an operation so much easier than the laying of taxes, that a government, in the practice of paper emissions, would rarely fail, in any such emergency, to indulge itself too far in the employment of that resource, to avoid, as much as possible, one less auspicious to present popularity. If it should not even be carried so far as to be rendered an absolute bubble, it would at least be likely to be extended to a degree which would occasion an inflated and artificial state of things, incompatible with the regular and prosperous course of the political economy.

Among other material differences between a paper currency, issued by the mere authority of Government, and one issued by a bank, payable in coin, is this: That, in the first case, there is no standard to which an appeal can be made, as to the quantity which will only satisfy, or which will surcharge the circulation: in the last, that standard results from the demand. If more should be issued than is necessary, it will return upon the bank. Its emissions, as elsewhere intimated, must always be in a compound ratio to the fund and the demand: whence it is evident, that there is a limitation in the nature of the thing; while the discretion of the Government is the only measure of the extent of the emissions, by its own authority.

This consideration further illustrates the danger of emissions of that sort, and the preference which is due to bank paper.

There are at present three banks in the United States: that of North America, established in the city of Philadelphia; that of New York, established in the city of New York; that of Massachusetts, established in the town of Boston. Of these three, the first is the only one which has at any time had a direct relation to the Government of the United States.

The Bank of North America originated in a resolution of Congress of the 26th of May, 1781, founded upon a proposition of the Superintendent of Finance, which was afterwards carried into execution by an ordinance of the 31st of December following, entitled "An ordinance to incorporate the subscribers to the Bank of North America."

The aid afforded to the United States by this institution, during the remaining period of the war, was of essential consequence; and its conduct towards them since the peace, has not weakened its title to their patronage and favor. So far, its pretensions to the character in question are respectable; but there are circumstances which militate against them, and considerations which indicate the propriety of an establishment on different principles.

The directors of this bank, on behalf of their constituents, have since *accepted*, and *acted* under, a new charter, from the State of Pennsylvania, materially variant from their original one, and which so narrows the foundation of the institution, as to render it an incompetent basis for the extensive purposes of a national bank.

The limit assigned by the ordinance of Congress to the stock of the bank, is ten millions of dollars. The last charter of Pennsylvania confines it to two millions. Questions naturally arise, whether there be not a direct repugnancy between two charters so differently circumstanced? and whether the acceptance of the one, is not to be deemed a virtual surrender of the other? But, perhaps it is neither advisable nor necessary to attempt a solution of them.

There is nothing in the acts of Congress which imply an exclusive right in the institution to which they relate, except during the term of the war. There is, therefore, nothing, if the public good require it, which prevents the establishment of another. It may, however, be incidentally remarked, that, in the general opinion of the citizens of the United States, the Bank of North America has taken the station of a bank of Pennsylvania only. This is a strong argument for a new institution, or for a renovation of the old, to restore it to the situation in which it originally stood in the view of the United States.

But, though the ordinance of Congress contains no grant of exclusive privileges, there may be room to allege, that the Government of the United States ought not, in point of candor and equity, to establish any rival or interfering institution, in prejudice of the one already established; especially as this has, from services rendered, well founded claims to protection and regard.

The justice of such an observation ought, within proper bounds, to be admitted. A new establishment of the sort ought not to be made without cogent and sincere reasons of public good. And, in the manner of doing it, every facility should be given to a consolidation of the old with the new, upon terms not injurious to the parties concerned. But there is no ground to maintain that, in a case in which the Government has made no condition restricting its authority, it ought voluntarily to restrict it, through regard to the interests of a particular institution, when those of the State dictate a different course; especially, too, after such circumstances have intervened, as characterize the actual situation of the Bank of North America.

The inducements to a new disposition of the thing are now to be considered. The first of them which occurs is, the, at least, ambiguous situation in which the Bank of North America has placed itself, by the acceptance of its last charter. If this has rendered it the mere bank of a particular State, liable to dissolution at the expiration of fourteen years, to which term the act of that State has restricted its duration, it would be neither fit nor expedient to accept it as an equivalent for a bank of the United States.

The restriction of its capital, also, which, according to the same supposition, cannot be extended beyond two millions of dollars, is a conclusive reason for a different establishment. So small a capital promises neither the requisite aid to Government, nor the requisite security to the community. It may answer very well the purposes of local accommodation, but is an inadequate foundation for a circulation co-extensive with the United States, embracing the whole of their revenues, and affecting every individual into whose hands the paper may come.

And, inadequate as such a capital would be to the essential ends of a National Bank, it is liable to being rendered still more so, by that principle of the constitution of the Bank of North America, contained equally in its old and in its new charter, which leaves the increase of the *actual* capital at any time (now far short of the allowed extent) to the discretion of the directors or stockholders. It is naturally to be expected, that the allurements of an advanced price of stock, and of large dividends, may disincite those who are interested to an extension of capital, from which they will be apt to fear a diminution of profits. And for this circumstance, the interest and accommodation of the public, (as well individually as collectively) are made more subordinate to the interest, real or imagined, of the stockholders, than they ought to be. It is true, that, unless the latter be consulted, there can be no bank, (in the sense at least in which institutions of this kind, worthy of confidence, can be established in this country.) But, it does not follow that this is alone to be consulted, or that it even ought to be paramount. Public utility is more truly the object of public banks than private profit. And it is the business of Government to constitute them on such principles, that, while the latter will result in a sufficient degree to afford competent motives to engage in them, the former be not made subservient to it. To effect this, a principal object of attention ought to be to give free scope to the creation of an ample capital, and with this view, fixing the bounds which are deemed safe and convenient, to leave no discretion either to stop short of them, or to overpass them. The want of this precaution in the establishment of the Bank of North America, is a further and an important reason for desiring one differently constituted.

There may be room at first sight for a supposition, that, as the profits of a bank will bear a proportion to the extent of its operations, and as for this reason the interest of the stockholders will not be disadvantageously affected by any necessary augmentations of capital, there is no cause to apprehend that they will be indisposed to such augmentations. But most men, in matters of this nature, prefer the certainties they enjoy, to probabilities depending on untried experiments, especially, when these promise rather that they will not be injured, than that they will be benefited.

From the influence of this principle, and a desire of enhancing its profits, the directors of a bank will be more apt to overstrain its faculties, in an attempt to face the additional demands which the course of business may create, than to set on foot new subscriptions, which may hazard a diminution of the profits, and even a temporary reduction of the price of stock.

Banks are among the best expedients for lowering the rate of interest in a country; but, to have this effect, their capitals must be completely equal to all the demands of business, and such as will tend to remove the idea, that the accommodations they afford are in any degree favors—an idea very apt to accompany the parsimonious dispensation of contracted funds. In this, as in every other case, the plenty of the commodity ought to beget a moderation of the price.

The want of a principle of rotation in the constitution of the Bank of North America is another argument for a variation of the establishment. Scarcely one of the reasons which militate against this principle in the constitution

supposed to be, and, in certain emergencies, under a feeble or too sanguine administration, would really be, liable to being too much influenced by *public necessity*. The suspicion of this would, most probably, be a canker that would continually corrode the vitals of the credit of the bank, and would be most likely to prove fatal in those situations in which the public good would require that they should be most sound and vigorous. It would, indeed, be little less than a miracle, should the credit of the bank be at the disposal of the Government, if, in a long series of time, there was not experienced a calamitous abuse of it. It is true, that it would be the real interest of the Government not to abuse it; its genuine policy to husband and cherish it with the most guarded circumspection, as an inestimable treasure. But what government ever uniformly consulted its true interests in opposition to the temptations of momentary exigencies? What nation was ever blessed with a constant succession of upright and wise administrators?

The keen, steady, and, as it were, magnetic sense of their own interest as proprietors, in the directors of a bank, pointing invariably to its true pole—the prosperity of the institution—is the only security that can always be relied upon for a careful and prudent administration. It is, therefore, the only basis on which an enlightened, unqualified, and permanent confidence can be expected to be erected and maintained.

The precedents of the banks established in several cities of Europe, Amsterdam, Hamburg, and others, may seem to militate against this position. Without a precise knowledge of all the peculiarities of their respective constitutions, it is difficult to pronounce how far this may be the case. That of Amsterdam, however, which we best know, is rather under a municipal than a governmental direction. Particular magistrates of the city, not officers of the republic, have the management of it. It is also a bank of deposit, not of loan, or circulation; consequently, less liable to abuse, as well as less useful. Its general business consists in receiving money for safe keeping, which, if not called for within a certain time, becomes a part of its stock, and irreclaimable. But a credit is given for it on the books of the bank, which, being transferable, answers all the purposes of money.

The directors being magistrates of the city, and the stockholders in general its most influential citizens, it is evident that the principle of private interest must be prevalent in the management of the bank. And it is equally evident, that, from the nature of its operations, that principle is less essential to it than to an institution constituted with a view to the accommodation of the public and individuals, by direct loans and a paper circulation.

As far as may concern the aid of the bank, within the proper limits, a good government has nothing more to wish for than it will always possess, though the management be in the hands of private individuals. As the institution, if rightly constituted, must depend for its renovation, from time to time, on the pleasure of the Government, it will not be likely to feel a disposition to render itself, by its conduct, unworthy of public patronage. The Government, too, in the administration of its finances, has it in its power to reciprocate benefits to the bank, of not less importance than those which the bank affords to the Government, and which, besides, are never unattended with an immediate and adequate compensation. Independent of these more particular considerations, the natural weight and influence of a good government will always go far towards procuring a compliance with its desires; and, as the directors will usually be composed of some of the most discreet, respectable, and well informed citizens, it can hardly ever be difficult to make them sensible of the force of the inducements which ought to stimulate their exertions.

It will not follow, from what has been said, that the State may not be the holder of a part of the stock of a bank, and consequently a sharer in the profits of it. It will only follow that it ought not to desire any participation in the direction of it, and, therefore, ought not to own the whole or a principal part of the stock: for, if the mass of the property should belong to the public, and if the direction of it should be in private hands, this would be to commit the interests of the State to persons not interested, or not enough interested in their proper management.

There is one thing, however, which the Government owes to itself and to the community—at least, to all that part of it who are not stockholders—which is, to reserve to itself a right of ascertaining, as often as may be necessary, the state of the bank; excluding, however, all pretension to control. This right forms an article in the primitive constitution of the Bank of North America; and its propriety stands upon the clearest reasons. If the paper of a bank is to be permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver in all the transactions of business; it becomes, in either view, a national concern of the first magnitude. As such, the ordinary rules of prudence require that the Government should possess the means of ascertaining, whenever it thinks fit, that so delicate a trust is executed with fidelity and care. A right of this nature is not only desirable, as it respects the Government, but it ought to be equally so to all those concerned in the institution, as an additional title to public and private confidence, and as a thing which can only be formidable to practices that imply mismanagement. The presumption must always be, that the characters who would be intrusted with the exercise of this right, on behalf of the Government, will not be deficient in the discretion which it may require; at least, the admitting of this presumption cannot be deemed too great a return of confidence for that very large portion of it which the Government is required to place in the bank.

Abandoning, therefore, ideas which, however agreeable or desirable, are neither practicable nor safe, the following plan, for the constitution of a National Bank, is respectfully submitted to the consideration of the House.

1. The capital stock of the bank shall not exceed ten millions of dollars, divided into twenty-five thousand shares, each share being four hundred dollars; to raise which sum, subscriptions shall be opened on the first Monday of April next, and shall continue open until the whole shall be subscribed. Bodies politic as well as individuals may subscribe.

2. The amount of each share shall be payable, one-fourth in gold and silver coin; and three-fourths in that part of the public debt, which, according to the loan proposed by the act making provision for the debt of the United States, shall bear an accruing interest, at the time of payment, of six per centum per annum.

3. The respective sums subscribed shall be payable in four equal parts, as well specie as debt, in succession, and at the distance of six calendar months from each other; the first payment to be made at the time of subscription. If there shall be a failure in any subsequent payment, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

4. The subscribers to the bank, and their successors, shall be incorporated, and shall so continue until the final redemption of that part of its stock which shall consist of the public debt.

5. The capacity of the corporation to hold real and personal estate, shall be limited to fifteen millions of dollars, including the amount of its capital, or original stock. The lands and tenements which it shall be permitted to hold, shall be only such as shall be requisite for the immediate accommodation of the institution, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted, in the usual course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

6. The totality of the debts of the company, whether by bond, bill, note, or other contract, (credits for deposits excepted) shall never exceed the amount of its capital stock. In case of excess, the directors, under whose administration it shall happen, shall be liable for it in their private or separate capacities. Those who may have dissented may excuse themselves from this responsibility, by immediately giving notice of the fact, and their dissent, to the President of the United States, and to the stockholders, at a general meeting, to be called by the President of the

suffrages of the stockholders, to serve for a year. The directors, at their first meeting after each election, shall choose one of their number as President.

11. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following, that is to say: For one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, co-partnership, or body politic, shall be entitled to a greater number than thirty votes. And, after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the United States, and none other, may vote in the elections by proxy.

12. Not more than three-fourths of the directors in office, exclusive of the President, shall be eligible for the next succeeding year. But the director who shall be President at the time of an election, may always be re-elected.

13. None but a stockholder, being a citizen of the United States, shall be eligible as a director.

14. Any number of stockholders, not less than sixty, who, together, shall be proprietors of two hundred shares, or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution; giving at least six weeks notice, in two public gazettes, of the place where the bank is kept, and specifying, in such notice, the object of the meeting.

15. In case of the death, resignation, absence from the United States, or removal, of a director, by the stockholders, his place may be filled by a new choice for the remainder of the year.

16. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the President, for his extraordinary attendance at the bank, as shall appear to them reasonable.

17. Not less than seven directors shall constitute a board for the transaction of business.

18. Every cashier or treasurer, before he enters on the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than twenty thousand dollars, with condition for his good behavior.

19. Half-yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors advisable. And, once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid, after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profit, if any; after deducting losses and dividends.

20. The bills and notes of the bank, originally made payable, or which shall have become payable, on demand, in gold and silver coin, shall be receivable in all payments to the United States.

21. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the bank, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statements; provided that this shall not be construed to imply a right of inspecting the account of any private individual or individuals, with the bank.

22. No similar institution shall be established by any future act of the United States, during the continuance of the one hereby proposed to be established.

23. It shall be lawful for the directors of the bank to establish offices wheresoever they shall think fit, within the United States, for the purposes of discount and deposit, only, and upon the same terms, and in the same manner, as shall be practised at the bank, and to commit the management of the said offices, and the making of the said discounts, either to agents specially appointed by them, or to such persons as may be chosen by the stockholders residing at the place where any such office shall be, under such agreements, and subject to such regulations, as they shall deem proper, not being contrary to law, or to the constitution of the bank.

24. And lastly, the President of the United States shall be authorized to cause a subscription to be made to the stock of the said company, on behalf of the United States, to an amount not exceeding two millions of dollars, to be paid out of the moneys which shall be borrowed by virtue of either of the acts, the one, entitled "An act making provision for the debt of the United States;" and the other, "entitled "An act making provision for the reduction of the public debt;" borrowing of the bank an equal sum, to be applied to the purposes for which the said moneys shall have been procured, reimburseable in ten years, by equal annual instalments; or at any time sooner, or in any greater proportions, that the Government may think fit.

The reasons for the several provisions contained in the foregoing plan, have been so far anticipated, and will, for the most part, be so readily suggested by the nature of those provisions, that any comments which need further be made, will be both few and concise.

The combination of a portion of the public debt, in the formation of the capital, is the principal thing of which an explanation is requisite. The chief object of this is to enable the creation of a capital sufficiently large to be the basis of an extensive circulation, and an adequate security for it. As has been elsewhere remarked, the original plan of the Bank of North America contemplated a capital of ten millions of dollars, which is certainly not too broad a foundation for the extensive operations to which a national bank is destined. But to collect such a sum in this country, in gold and silver, into one depository, may, without hesitation, be pronounced impracticable. Hence the necessity of an auxiliary, which the public debt at once presents.

This part of the fund will be always ready to come in aid of the specie; it will more and more command a ready sale; and can, therefore, expeditiously be turned into coin, if an exigency of the bank should at any time require it. This quality of prompt convertibility into coin, renders it an equivalent for that necessary agent of bank circulation, and distinguishes it from a fund in land, of which the sale would generally be far less compendious, and at great disadvantage. The quarter-yearly receipts of interest will also be an actual addition to the specie fund, during the intervals between them and the half yearly dividends of profits. The objection to combining land with specie, resulting from their not being generally in possession of the same persons, does not apply to the debt, which will always be found in considerable quantity among the moneyed and trading people.

The debt composing part of the capital, besides its collateral effect in enabling the bank to extend its operations, and consequently to enlarge its profits, will produce a direct annual revenue of six per centum from the Government, which will enter into the half-yearly dividends received by the stockholders.

When the present price of the public debt is considered, and the effect which its conversion into bank stock, in-

liable for the excess, in proportion to his interest in the bank. When it is considered that the directors owe their appointments to the choice of the stockholders, a responsibility of this kind, on the part of the latter, does not appear unreasonable; but, on the other hand, it may be deemed a hardship upon those who may have dissented from the choice. And there are many among us, whom it might perhaps discourage from becoming concerned in the institution. These reasons have induced the placing of the responsibility upon the directors by whom the limit prescribed should be transgressed.

The interdiction of loans on account of the United States, or of any particular State, beyond the moderate sum specified, or of any foreign Power, will serve as a barrier to Executive encroachments, and to combinations inauspicious to the safety, or contrary to the policy of the Union.

The limitation of the rate of interest is dictated by the consideration, that different rates prevail in different parts of the Union; and as the operations of the bank may extend through the whole, some rule seems to be necessary. There is room for a question, whether the limitation ought not rather to be to five than to six per cent., as proposed. It may, with safety, be taken for granted, that the former rate would yield an ample dividend, perhaps as much as the latter, by the extension which it would give to business. The natural effect of low interest is to increase trade and industry; because undertakings of every kind can be prosecuted with greater advantage. This is a truth generally admitted; but it is requisite to have analyzed the subject in all its relations, to be able to form a just conception of the extent of that effect. Such an analysis cannot but satisfy an intelligent mind, that the difference of one per cent. in the rate at which money may be had, is often capable of making an essential change for the better in the situation of any country or place.

Every thing, therefore, which tends to lower the rate of interest, is peculiarly worthy of the cares of legislators. And though laws, which violently sink the legal rate of interest greatly below the market level, are not to be commended, because they are not calculated to answer their aim, yet, whatever has a tendency to effect a reduction, without violence to the natural course of things, ought to be attended to and pursued. Banks are among the means most proper to accomplish this end; and the moderation of the rate at which their discounts are made, is a material ingredient towards it; with which their own interest, viewed on an enlarged and permanent scale, does not appear to clash.

But, as the most obvious ideas are apt to have greater force than those which depend on complex and remote combinations, there would be danger that the persons whose funds must constitute the stock of the bank, would be diffident of the sufficiency of the profits to be expected, if the rate of loans and discounts were to be placed below the point to which they have been accustomed, and might, on this account, be indisposed to embarking in the plan. There is, it is true, one reflection, which, in regard to men, actively engaged in trade, ought to be a security against this danger; it is this: That the accommodations which they might derive in the way of their business, at a low rate, would more than indemnify them for any difference in the dividend, supposing even that some diminution of it were to be the consequence. But, upon the whole, the hazard of contrary reasoning among the mass of moneyed men, is a powerful argument against the experiment. The institutions of the kind already existing, add to the difficulty of making it. Mature reflection and a large capital, may, of themselves, lead to the desired end.

The last thing which requires any explanatory remark, is, the authority proposed to be given to the President, to subscribe the amount of two millions of dollars on account of the public. The main design of this is, to enlarge the specie fund of the bank, and to enable it to give a more early extension to its operations. Though it is proposed to borrow with one hand what is lent with the other, yet the disbursement of what is borrowed, will be progressive, and bank notes may be thrown into circulation, instead of the gold and silver. Besides, there is to be an annual reimbursement of a part of the sum borrowed, which will finally operate as an actual investment of so much specie. In addition to the inducements to this measure, which results from the general interest of the Government to enlarge the sphere of the utility of the bank, there is this more particular consideration, to wit: That, as far as the dividend on the stock shall exceed the interest paid on the loan, there is a positive profit.

The Secretary begs leave to conclude with this general observation: That, if the Bank of North America shall come forward with any propositions which have for their objects, the engrafting upon that institution, the characteristics which shall appear to the Legislature necessary to the due extent and safety of a National Bank, there are, in his judgment, weighty inducements to giving every reasonable facility to the measure. Not only the pretensions of that institution, from its original relation to the Government of the United States, and from the services it has rendered, are such as to claim a disposition favorable to it, if those who are interested in it are willing, on their part, to place it on a footing satisfactory to the Government, and equal to the purposes of a bank of the United States, but its co-operation would materially accelerate the accomplishment of the great object, and the collision, which might otherwise arise, might, in a variety of ways, prove equally disagreeable and injurious. The incorporation or union here contemplated, may be effected in different modes, under the auspices of an act of the United States, if it shall be desired by the Bank of North America, upon terms which shall appear expedient to the Government.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

PUBLIC CREDITORS.

COMMUNICATED TO THE SENATE, DECEMBER 20, 1790.

To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled, the memorial and remonstrance of the public creditors, who are citizens of the Commonwealth of Pennsylvania.

and, therefore, however incongruous its different parts appeared, your memorialists readily presumed that the legislative body of a nation, emerging from embarrassments that had been chiefly produced by the loss of credit, would rather pursue the salutary and immutable precepts of justice, which are delivered in the introduction, than adopt the novel and precarious speculations that are enumerated in the sequel of the report. The rule of justice being clearly ascertained, no one ventured to predict a deviation; and the rights of the public creditor being explicitly acknowledged, gratitude forbade that his necessity should be made the instrument to destroy them.

But the controversy which afterwards arose in your honorable Houses gave a new complexion to the scene: for, when the services by which your memorialists had contributed to the national freedom and independence seemed to be forgotten by those who could best attest them; when they found that the tedious sufferings to which they had been exposed, in consequence of their zealous patriotism, did not, with proportionate warmth, excite your sensibility and regard; and when they heard, with equal sorrow and surprise, that to their claim alone, the common measure of justice was denied; the grateful prospect which the indulgence of a reasonable hope had presented to their view, was again overshadowed and obscured; and no ray of consolation was left to penetrate the gloom, since the Government, in acquiring the power, had apparently lost the disposition, to reimburse the aids, and compensate the toils of the faithful, though antiquated and impoverished servants of the Union.

In a free country, every citizen participates in the reputation and the well-being of the Government; and hence the constitutional title to remonstrate against such public acts as are injurious to the interests of the People, or derogatory to the honor of the nation. In the character, therefore, of citizens who are anxious for the prosperity of their country, as well as in the character of injured men, who have endeavored to deserve her thanks, your memorialists presume to address your honorable body upon this important occasion, and to claim a candid attention while they assert their rights, and deprecate the fatal consequences of a violation of the public faith.

The moral and political obligation of contracts has, indeed, furnished a theme for the philosophers who have instructed, and a rule for the statesmen who have governed mankind, in every age, and in every country. The faith of nations, like the credit of individuals, has not only been deemed the criterion of their virtue, but the instrument of their opulence and their power; and so fixed and sacred a character is given to this palladium of political prosperity, that every arbitrary attempt, in any degree, to change the aspect, or to divert the operation of a public contract, must be as fatal as a natural deficiency of resource, or an original depravity of sentiment. Nor is it by direct and coercive means alone that the purity of national honor may be sullied and destroyed. Few men are weak enough to deny the importance of public credit; and fewer still, in opposition to the present habits and opinions of the world, are bold enough to assail it with the naked arm of force. Hence it is, that, in every instance of a modern violation of the engagements of government, some plausible pretext, or some insidious lure, has always been suggested to ensnare the unwary, or to captivate the necessitous. But the refinement of such arts cannot palliate the motives in which they originate, nor avert the consequences that are invariably produced: for justice, regarding the substance, not the form, will hardly discriminate between the act, by which, in the plenitude of power, a well founded claim is peremptorily rejected; and that, by which, through the medium of penury or fear, an unreasonable concession is clandestinely obtained.

Under the impression of these opinions, your memorialists are deeply afflicted, when they contemplate the late act of Congress, which bears the title of "An act making provision for the debt of the United States:" for, if (as the Secretary of the Treasury has likewise remarked) the maintenance of public credit depends upon good faith, and a punctual performance of contracts, it is submitted, with great deference, to your honorable body, upon what foundation the arrangements made in respect to the domestic debt of the United States can fairly be included in that essential definition. It is true, that the law has not expressly extinguished the rights of the domestic creditors; nor does it, in form, annul the solemn obligations of the Union. But your memorialists appeal to the candor of those whom they address, when they assert, that the discrimination between the claims of citizens and of foreigners; the partial provision for the subscribers to the proposed loan; and the arbitrary exchange of the certificates of non-subscribers, before the principal debt is ready to be discharged, are manifest infractions of the original contract; inconsistent with its nature, and destructive of its principles.

Permit your memorialists here, in a short but interesting retrospect, to remind your honorable body of the circumstances under which they advanced to the relief of their country, and of the sense which your illustrious predecessors entertained of the public obligation. At the darkest period of the American contest, when the exertions of the enemy increased, and the public revenues became greatly insufficient for the exigencies of the Union, the hope of Government rested on the spirit and patriotism of individuals; and every art of solicitation, every mode of assurance, were employed, to obtain confidence and support. With each new necessity, a new expedient was devised. Thus, having obtained one loan at a low interest, on the occasion of a further supply, the annual interest, (for the payment of which, as well as the principal, upon the first and every succeeding loan, the faith of the United States was solemnly pledged) by the resolution of Congress of the twenty-sixth of February, 1777, was voluntarily raised from four to six per cent.; and, when it was again necessary to invite the aid of private contributions, that interest, by a resolution of the tenth of September following, was made payable, in bills of exchange on the commissioners of the United States at Paris, or in continental bills of credit, at the option of the respective lenders.

Additional encouragement for promoting loans was likewise offered in the resolutions of the eleventh and twenty-ninth of June, and of the sixth of October, 1779; and on the twenty-eighth of June, 1780, a scale of depreciation was framed, to ascertain the principal stock of the subscribers, according to the respective periods of subscription, with a proviso, however, (which was confirmed by several subsequent resolutions of Congress) that the same interest should be allowed on certificates taken out before the first of March, 1778, until the principal, ascertained as aforesaid, be ready to be discharged. It is a remark, indeed, of great importance at this time, that, to furnish a full and satisfactory security for the just and punctual payment of the stipulated interest, was, in a pecuniary point of view, the sole and uniform foundation, however diversified or enlarged with a change of circumstances, upon which Congress built the expectation, of rendering the private fortunes of the citizens subservient to the general purposes of the Union; and, accordingly, that honorable body, in their resolution of the fifteenth of January, 1784, with great candor and propriety declare, that "their inability to discharge the interest according to the promise, does not dissolve the same, but that the creditors are justly entitled to an equivalent."

When, however, the state of the national affairs is remembered; when the doubtful aspect of the war; the depreciation of the continental emissions of paper money, and the reiterated breaches of the public promises, are considered; your memorialists trust that more liberal motives than those of a pecuniary nature will be found to have influenced their conduct. If the mere security of their property was an object, would they have assigned it to a government, whose very existence was insecure? Or, if the accumulation of profit was alone in view, would they, while commerce multiplied her avenues to wealth; while speculation invited to sudden greatness; and while the most responsible land holders were eager to borrow—would they have exacted, from the tarnished faith of a feeble confederation, nothing more than the customary premium, where the security is undeniable, and every idea of hazard is removed? Congress were well aware, indeed, of the disadvantages to which, on this ground, the Union was ex-

government, no contract could ever be more propitious in its origin, or more beneficial in its consequences. If, therefore, the honest public creditor is now to be deprived of his rights and property; if the principle on which he consented to supply the wants of the Union, is, at this period, to be warped to his disadvantage; let it be announced, as a policy hitherto unknown among nations, that the accomplishment of peace and security is in itself a release from the engagements which were formed during a state of danger and adversity; or, to use a different mode of expression, that the very enjoyment of success justifies a callous disregard of the means by which it was obtained.

Far different, however, were the sentiments entertained by your ever-honored predecessors. Conscious, as they acknowledge in their resolutions of the twenty-second of November, 1777, and the twenty-sixth of May, 1779, that "they had raised all the necessary supplies on the public faith;" that "signal advantages had arisen from the establishment of continental loan offices, on which they continued to place a great dependence;" and that, "from time to time, they had repeatedly and earnestly solicited the loan of money on the faith of the United States;" in contemplating the debt that was by such means accumulated, they invariably endeavored to enforce the excellent precept contained in the latter resolution, that, "as the rules of justice are most pleasing to our infinitely good and gracious Creator, and an adherence to them most likely to obtain his favor, so they will ever be found to be the best and safest maxims of human policy." Thus, in the celebrated circular letter, unanimously adopted and published by a resolution of Congress, of the thirteenth of September, 1779, a comprehensive view is taken of the state of the public credit and finances; the ability of the Union to discharge her engagements, depending on the success of the Revolution; and the natural resources of the country, is satisfactorily discussed; the force of the national obligation is clearly demonstrated; and, at that season of public virtue and calamity, the question, "whether there was any reason to apprehend a wanton violation of the public faith, involving in it a doubt so injurious to the honor and dignity of America," was hardly considered worthy of a single animadversion. Congress (to speak in their own inimitable language) "would not pay so ill a compliment to the understanding and honor of every true American, as to adduce many arguments to shew the baseness or bad policy of violating our national faith, or omitting to pursue the measures necessary to preserve it." They treated "a bankrupt faithless republic as a novelty in the political world, which would appear, among reputable nations, like a common prostitute among chaste and respectable matrons." They urged, that "the pride of America revolted at the idea." They believed that, "apprised of the consequences, knowing the value of national character, and impressed with a due sense of the immutable laws of justice and honor, it was impossible she should think, without horror, of such an execrable deed." And, in a strain of noble enthusiasm, they exclaimed, "Let it never be said that America had no sooner become independent, than she became insolvent; or, that her infant glories and growing fame were obscured and tarnished by broken contracts and violated faith, in the very hour when all the nations of the earth were admiring, and almost adoring the splendor of her rising!"

But the zeal of Congress was not confined, at that time, to a mere investigation of the principles of justice, or an eloquent display of the indissoluble connexion between public faith and public happiness. The ambition of that wise and virtuous body (upon whom the arduous task had devolved, of raising armies without revenue; of inspiring credit where only jealousy and distrust could reasonably be supposed to exist; and of preserving the dignity of a sovereign character with the scanty powers delegated by the constitution) extended, far beyond the theory, to the practice of right. And, therefore, having declared to their constituents the necessity of being just, they could deem their duty but partially performed; till they had, likewise, pointed out the manner in which justice might be done. For this purpose, the proposition of the five per cent. impost was submitted to the several States, as a matter "indispensably necessary to the restoration of the public credit, and to the punctual and honorable discharge of the public debts." That memorable act, indeed, and the address which accompanied it, (however unsuccessful in their immediate design) furnish a monument of political honor, truth, and wisdom, which has never been excelled, and rarely been imitated in the history of governments. On their own account, Congress claimed no enlargement of jurisdiction: for they only required that the means of discharging the national faith, which they were before authorized to pledge, might be more effectually ascertained. Nor did they seek their own aggrandisement and emolument: for all the duties arising from the system which they proposed, were expressly and exclusively appropriated to "the discharge of the interest or principal of the debts, contracted on the faith of the United States, for supporting the war." This, alone, was "the object of which the address presumes the necessity would be peculiarly felt," and which "Congress thought it was peculiarly incumbent on them to inculcate." "The magnitude of the debt made no part of the question," in their contemplation: for they thought "it sufficient that the debt had been fairly contracted, and that justice and good faith demand that it should be fairly discharged." And when, indeed, they condescended to obviate the objections of the State of Rhode Island to their plan, they did not hesitate to pronounce, that "the omission to provide a fund for the discharge of the principal and interest of the public debt, would be the deepest ingratitude and cruelty to a large number of meritorious individuals, who, in the most critical periods of the war, had adventured their fortunes in support of our independence. It would stamp the national character with indelible disgrace."

Such, then, was the public contract, and such were the sentiments which the late Congress entertained of its force and consequence. And upon your honorable body the obligation of that contract is now inviolably imposed, by the paramount authority of the constitution from which you derive your political existence. For, those who deliberately prescribed the condition of the loan, and those who lawfully pledged the faith of the Union, having thus furnished an unequivocal interpretation of the nature and extent of their engagements, the new frame of government, which declares that "all debts contracted, and engagements entered into, before its adoption, shall be as valid against the United States, under this constitution, as under the confederation," has, only in this respect, assigned to you the exercise of a ministerial office, with competent powers to provide the means of discharging that debt, the validity of which is already incontrovertibly established, and its terms irrevocably placed beyond the touch of legislation. The common maxims of justice prove, indeed, that, in a state superior to bankruptcy, there can be no alternative but absolute payment of the loan, or unqualified acquiescence in the conditions upon which it was made. If ever the origin of a debt could impair the right to payment; if ever the amount could justify an arbitrary reduction; or, if the circumstances of a country could at all be pleaded in extenuation of a breach of faith; France, instead of returning the lesson of liberty which America had taught her, with a splendid example of national probity and honor, might, under the specious coloring of the present crisis, have swept her dark and inscrutable load of millions into an everlasting oblivion. Great Britain, it is true, has repeatedly reduced the rate of the interest of her public debt; but, when has that kingdom, or when has any nation, however embarrassed in point of finance, or despotic in point of power, ventured to propose a measure of that kind, without previous offer of a full and complete satisfaction of the demands of every dissenting creditor?

Nor, hitherto, has the policy of America differed, upon this ground, from the enlightened policy of Europe. The right of the public creditors to receive the principal of their advances; your honorable predecessors have uniformly acknowledged; and, even where the inexpediency or the incapacity of conforming to that right has been urged, the memorable reply to the objections of the State of Rhode Island (in unison with many other resolutions) observed

be of great importance in guiding the constituent members of the Union) will eventually demonstrate, that you are as sensible of its political importance as those who introduced it into the frame of government, and as effectually guided by its benign influence, as those to whom, by a form of words, it has been more particularly applied. But, for the present, they cannot hesitate to complain of the subsisting act of Congress, making provision for the debt of the Union, as an unnecessary dereliction of the public faith; as a striking contrast to the illustrious example of your predecessors; and as a dangerous infraction of the fundamental laws of justice.

This act of Congress, your memorialists have already observed, does not expressly extinguish the rights of the domestic creditor; but they now beg leave respectfully to inquire, upon what equitable or natural discrimination those rights are attacked by overtures of a partial payment, and cramped by provisions of an inadequate extent, while the claims of foreign creditors are admitted in the fullest latitude, and funded on the broadest basis of original stipulation? The same common faith of the United States, with similar solemnities, was pledged to the *domestic* and to the *foreign* creditor; the language was as forcible, the meaning as clear, and the consideration as valuable, in the contract with the former, as the contract with the latter; and, if the rule of justice is, indeed, immutable; if it differs not with a difference of person or of place; the equal degree of confidence which both classes had reposed in the honor and resources of the nation, was entitled to an equal share of national gratitude and consideration. Will it be said, then, that the character of the creditor is lost in the character of the subject, or, that the interests of a stranger are more sacred than the interests of a citizen? There is this distinction, indeed, that every creditor, who is also a subject, is bound proportionally to contribute, as well to the payment of his own demand, as to the payment of the debt due to foreigners, which is not a reciprocal obligation; but, in every other respect, they surely stand upon the same footing. The citizen must be, according to the terms of the contract, as completely vested, as the alien, with all the privileges and immunities that belong to a party; and, it is only in the light of a party, that the Government can, upon such occasions, consider or protect the interests of either.

But, contrary to the new-born notions of the present policy, it was the opinion of the venerable Franklin, in his letter to the late Congress, dated at Passy, the 23d of December, 1782, (an opinion resulting from long experience and undoubted wisdom) that "the foundation for credit abroad, should be laid at home." And, in every commercial country, the mutual dependence of domestic and foreign credit is almost proverbially acknowledged. It will be in vain, therefore, to attempt to restore the reputation of American faith, by any provision that is not commensurate with all her contracts and engagements. For, though, in this instance, the foreign creditors will suffer no actual injury, they will certainly have cause, in their subsequent transactions with the United States, for jealousy and suspicion. And, whatever may be the future exigencies of the Government; however anxious she may be, to obtain assistance and relief; it will be discovered, when, perhaps, the error is irretrievably committed, that the same act, by which every hope of internal contribution was voluntarily cut off, has, likewise, operated, with unintended force, to turn aside the streams of external confidence and succor. The doctrine of discrimination was justly contemned, indeed, when directed to another object; but, what reason precluded its reception in the case of the speculative purchaser of certificates, that does not, with superior energy, deny its application here? That its principle would be alike unjust, the preceding arguments are calculated to evince; and, that its execution would be alike difficult, must be sufficiently obvious in a moment's reflection upon the multiplicity and the circuitry of modes by which the claims of domestic creditors may have been legally transferred to foreigners. This consequence, however, will probably ensue; that, a new scene of speculation being opened, and the citizen being under greater temptation to sell the evidence of his claim to an alien, than to subscribe to the proposed loan, the public will be deprived of even the miserable consolation which might be expected in reaping the profit that arises from the sacrifice of the poor and oppressed domestic creditor.

Your memorialists mean not, by these observations, to convey to your honorable body the slightest idea of dissatisfaction or reproach, for the part which you have acted in favor of the foreign creditors. Adversity has naturally prepared their feelings for a sense of compassion, and the pride of patriotism has taught them to despise the suggestions of envy. But, while they can rejoice in the good fortune of others, or applaud whatever is honorable in their rulers, they may reasonably be allowed to lament their own hard condition, and complain of the measure by which it is unnecessarily occasioned. The comparative statement of the domestic claims with those of foreign creditors, extends not, therefore, any further than to establish that, however different in their treatment, there is no difference in the origin or in the obligation of the respective contracts. And your memorialists are happy, that, having already shewn the general nature and extent of the public debt, from the express declarations of your predecessors, they are again able to appeal to the records, which are now deposited in the archives of your honorable body, to demonstrate and sanctify the truth and equity of this latter position. "If other motives than that of justice could be requisite on this occasion, no nation could ever feel stronger; for, to whom, (it is asked in the circular letter of the 26th of April, 1783) are the debts to be paid?" And in answering this emphatical question, no invidious preference, no arbitrary distinction of right, will be found in the language or the sentiments of Congress, between "the ally, who, to the exertion of his arms in support of the American cause, has added the succors of his treasure," or "individuals in a foreign country, who were the first to give so precious a token of their confidence;" and those classes of creditors, into which your memorialists may be fairly divided—"the illustrious and patriotic band of fellow citizens, whose blood and bravery have defended the liberties of their country," and such "fellow-citizens as originally lent to the public the use of their funds; such as have manifested most confidence in their country, by receiving transfers from the lenders; or such, whose property has been either advanced or assumed for the public service." In this view of the subject, the provision made for the foreign creditors is a tacit admission of the rights of every other class; and it has been rendered a topic of animadversion, only as it furnishes an irrefragable argument, to vindicate the propriety of the present remonstrance.

The partial provision that is made for the subscribers to the proposed loan, however masked in the complications of calculation, or decorated with an adventitious glare of candor, is still, in the humble opinion of your memorialists, the mere offspring of that invidious spirit of discrimination which your predecessors, with manly frankness, reprobated and disclaimed; and which your honorable body deigned to resist and repel, when presented to your view in all its native deformity; without coloring and disguise. Is there a man who has read the annals of the American Revolution—is there a man who has witnessed the wonderful succession of events, by which it was accomplished—that hesitates in avowing, that the brave soldier, the original lender of money, and the actual contributor of supplies, ought to be rewarded, re-imbursed, and compensated, according to the highest expectations which the promises of Government had raised? Is it not, therefore, to be apprehended, that the pursuit of some collateral purpose has deafened the ear to the dictate of justice, or hardened the heart to the sensations of gratitude, when claims, so honorably founded, and so universally acknowledged, are canvassed without favor, and curtailed without necessity? Hence it is, that your memorialists conceive that the apparent injustice, and the incidental impracticability of dis-

as to their fellow-citizens in America; and many, on the assurance and prospect of a just settlement of their public claims, have since borrowed, from strangers or from friends, the means of supporting their families. The procrastination of national justice, however, has already consigned a considerable number of this description of public creditors to bankruptcy and despair; and there is too much reason to apprehend, that the result of the late deliberations of your honorable body will inevitably involve those, who have hitherto escaped, in all the horrors of a similar fate, when it is considered that the private debts, to which your memorialists have alluded, are, likewise, subject to the accumulation of interest; that the only resource for discharging those debts depended on the strictest performance of the public engagement; and that the patience of the persons to whom they are due, must be additionally shaken by the increasing danger of a loss. While, indeed, the funds of your memorialists were in the hands of the public, they could neither profit by the exercise of their industry, nor, if they had been so disposed, could they employ the legal opportunity of a tender in depreciated paper, to retaliate upon others; the advantage which many of their debtors had cruelly taken of them. In short, as it is not in the power of one individual to impose upon another, those modifications of contract, or to exact those diminutions of emolument, in which a Government may sometimes please to display its omnipotence to its subjects; whither, in the hour of their persecution and calamity, shall your memorialists fly for shelter and support? Reflect! they implore your honorable body deeply to reflect—that nothing more is asked than was promised; nothing more is required from you than could always have been obtained upon the security of private loans; that the public creditor has already been sufficiently mortified and tortured by delays and disappointments; that the payment of his whole demand, at this late hour, will be insufficient to answer the exigencies of his situation, or to restore him to the level with his fellow-citizens, who have not advanced their fortunes to the Government; and that, in refusing the payment, you will, in effect, refuse to the veteran and the patriot, the reward of their labors and fidelity; to the unprotected orphan, the price of his patrimony; and to the solitary widow, the melancholy commutation of her husband's blood.

The pride, the interest, and the wants of the public creditor, thus forbid his acquiescence in the conditions of the proposed loan; and even the limited participation to which he is invited, in the scanty provision made for those who shall subscribe to it, is, in many instances, collaterally barred by the previous exchange of certificates that is rendered necessary to enjoy it. Thus, by a resolution of the late Congress, of the twenty-eighth of June, 1780, it is declared, "that interest on all loan-office certificates, at the rate of six per cent. per annum, computed on the principal ascertained, agreeably to the rule there prescribed, shall be discharged annually, in like manner as the principal, until the principal shall be paid: Provided, nevertheless, that the same interest and mode of payment, of certificates taken out before the first day of March, 1778, shall be continued as at present, until the principal, ascertained as aforesaid, shall be ready to be discharged." And the interpretation of this resolution, upon a former application in behalf of your memorialists, was explicitly given by Congress, on the fifteenth of January, 1784, when they resolved, "That the interest which has, or may, become due on loan-office certificates, bearing date between the first day of September, 1777, and the first day of March, 1778, is not subjected to any depreciation." If, therefore, the holders of public securities of this description, in order to entitle themselves to a payment in proportion with the subscribers to the loan, shall, according to the regulations of the act of Congress, voluntarily "produce their respective certificates to the commissioners, to the end that the same may be cancelled, and other certificates issued in lieu thereof; which new certificates shall specify the specie amount of those in exchange for which they are given, and shall be, otherwise, of the like tenor with those heretofore issued by the Register of the Treasury, for the registered debt, and shall be transferable on the like principles with those directed to be issued on account of the subscription to the loan proposed;" then it is obvious, in the view of your memorialists, that the faith of the above resolutions, which is pledged for the payment of interest upon the nominal amount of such original certificates, till the specie value of the principal is ready to be discharged, will be effectually exonerated; the evidence of the claim will be totally merged and extinguished; and the public creditor, as the new certificate carries an interest only on the specie value which it expresses, and not upon the nominal amount of the certificate for which it is exchanged, is obliged to make a sacrifice of the important difference in the sum, merely to obtain a temporary accommodation—a transient alleviation of his distress.

Far be it from your memorialists to impute to your honorable body an intention to sport with their calamities, or to beguile them of their rights; but they pray you to consider well, how it will appear to men and to nations, less convinced of the purity of your designs, less conversant with the general probity of your actions, that the same law which solemnly enacts, "That nothing therein contained shall be construed in anywise to alter, abridge, or impair the rights of the creditors of the United States, who shall not subscribe to the loan, or the contracts upon which their respective claims are founded;" that the same law, that adds to this a formal declaration, that "such creditors shall not be excluded from a participation in the benefit intended to the creditor of the United States in general," has yet exacted a surrender of a part of those rights, as an indispensable preliminary to the enjoyment of that benefit! Will it not be denominated another appeal from justice to necessity? Will it not be thought another violation of faith, under the delusive semblance of candor and compassion?

Against the very foundation of the public debt, the present system seems, indeed, to be directed; since, notwithstanding the anxiety and perseverance with which your predecessors made the assurance of an adequate interest the inducement to the various loans that were obtained, the act of Congress renders the reduction or extinguishment of that interest the only medium of settlement and liquidation. But if this plan, operating with regard to the future, is inconsistent (as your memorialists have humbly shown) with justice and true policy, it must obviously be so, in a much greater degree, when it affects the past, and arbitrarily diminishes the amount of interest already due. For, in proposing that the arrearages of interest, still payable on the severable certificates, and the indents issued for a part of those arrearages, shall be funded at the rate of three instead of six per cent. the Government (when the plea of necessity, which could alone excuse the want of punctuality, has altogether ceased) aims at depriving the public creditor of a sum that ought, long ago, if honor and honesty could have prevailed against the imbecility of the late confederation, to have been in his own possession, and employed for his own emolument, as an addition to his capital.

With such obligations of justice, such ties of gratitude, and such solicitations of humanity, in favor of your memorialists, is there any possible palliation, or excuse, for an attempt to undermine the engagements of the late Congress, and to wrest from the ancient servants and creditors of their country, the stipulated equivalent for their labors and their loans? That the contract has been so long suspended, can surely be no reason for further delay. That it has been, in some respects, broken or infringed, is no justification for other infractions; and that an embarrassed and impotent confederation, with the most honorable wishes and intentions, has, occasionally, been driven to the use of temporising expedients, can form no precedent to warrant a powerful and unmolested Government in the adoption of a puny, partial policy. If, therefore, the resources of the Union are at all competent, your memorialists humbly insist,

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Your memorialists turn away from the impolicy and injustice of the said act, and view it in another light, in which, to them, it appears still more odious and deformed.

During the whole discussion of the federal constitution, by the convention of Virginia, your memorialists were taught to believe, "that every power not granted, was retained;" under this impression, and upon this positive condition, declared in the instrument of ratification, the said Government was adopted by the people of this Commonwealth; but your memorialists can find no clause in the constitution; authorizing Congress to assume debts of the States! As the guardians, then, of the rights and interests of their constituents; as sentinels placed by them over the ministers of the Federal Government, to shield it from their encroachments, or at least to sound the alarm when it is threatened with invasion; they can never reconcile it to their consciences silently to acquiesce in a measure which violates that hallowed maxim—a maxim, on the truth and sacredness of which, the Federal Government depended for its adoption in this Commonwealth. But this injudicious act not only deserves the censure of the General Assembly, because it is not warranted by the constitution of the United States, but, because it is repugnant to an express provision of that constitution. This provision is, "that all debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the Confederation;" which amounts to a constitutional ratification of the contracts respecting the State debts in the situation in which they existed under the Confederation; and, resorting to that standard, there can be no doubt that, in the present question, the rights of States, as contracting parties with the United States, must be considered as sacred.

The General Assembly of the Commonwealth of Virginia confide so fully in the justice and wisdom of Congress, upon the present occasion, as to hope that they will revise and amend the aforesaid act generally, and repeal, in particular, so much of it as relates to the assumption of the State debts.

Teste.

CHARLES HAY, C. H. D.

1790, December 23.

Agreed to by the Senate.

H. BROOKE, S. C.

1st CONGRESS.]

No. 24.

[Sd SESSION

ON THE ESTABLISHMENT OF A MINT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 28, 1791.

The Secretary of the Treasury having attentively considered the subject referred to him by the order of the House of Representatives, of the fifteenth of April last, relatively to the establishment of a Mint, most respectfully submits the result of his inquiries and reflections.

A plan for an establishment of this nature, involves a great variety of considerations—intricate, nice, and important. The general state of debtor and creditor; all the relations and consequences of price; the essential interests of trade and industry; the value of all property; the whole income, both of the State and of individuals, are liable to be sensibly influenced, beneficially or otherwise, by the judicious or injudicious regulation of this interesting object.

It is one, likewise, not more necessary than difficult to be rightly adjusted; one which has frequently occupied the reflections and researches of politicians, without having harmonized their opinions on some of the most important of the principles which enter into its discussion. Accordingly, different systems continue to be advocated, and the systems of different nations, after much investigation, continue to differ from each other.

But, if a right adjustment of the matter be truly of such nicety and difficulty, a question naturally arises, whether it may not be most advisable to leave things, in this respect, in the state in which they are? Why, might it be asked, since they have so long proceeded in a train which has caused no general sensation of inconvenience, should alterations be attempted, the precise effect of which cannot with certainty be calculated?

The answer to this question is not perplexing. The immense disorder which actually reigns in so delicate and important a concern, and the still greater disorder which is every moment possible, call loudly for a reform. The dollar originally contemplated in the money transactions of this country, by successive diminutions of its weight and fineness, has sustained a depreciation of five per cent., and yet the new dollar has a currency, in all payments in place of the old, with scarcely any attention to the difference between them. The operation of this in depreciating the value of property, depending upon past contracts; and, (as far as inattention to the alteration in the coin may be supposed to leave prices stationary) of all other property, is apparent. Nor can it require argument to prove, that a nation ought not to suffer the value of the property of its citizens to fluctuate with the fluctuations of a foreign mint, and to change with the changes in the regulations of a foreign sovereign. This, nevertheless, is the condition of one which, having no coins of its own, adopts with implicit confidence those of other countries.

The unequal values allowed in different parts of the Union to coins of the same intrinsic worth; the defective species of them which embarrass the circulation of some of the States; and the dissimilarity in their several moneys of account; are inconveniences, which, if not to be ascribed to the want of a national coinage, will at least be most effectually remedied by the establishment of one—a measure that will, at the same time, give additional security against impositions by counterfeit as well as by base currencies.

It was with great reason, therefore, that the attention of Congress, under the late Confederation, was repeatedly drawn to the establishment of a mint; and it is with equal reason that the subject has been resumed, now that the favorable change which has taken place in the situation of public affairs, admits of its being carried into execution.

But, though the difficulty of devising a proper establishment ought not to deter from undertaking so necessary a work, yet it cannot but inspire diffidence in one, whose duty it is made to propose a plan for the purpose, and may perhaps be permitted to be relied upon as some excuse for any errors which may be chargeable upon it, or for any deviations from sounder principles, which may have been suggested by others, or even in part acted upon by the former Government of the United States.

In order to a right judgment of what ought to be done, the following particulars require to be discussed:

1st. What ought to be the nature of the money unit of the United States?

2d. What the proportion between gold and silver, if coins of both metals are to be established?

3d. What the proportion and composition of alloy in each kind?

4th. Whether the expense of coinage shall be defrayed by the Government, or out of the material itself?

5th. What shall be the number, denominations, sizes, and devices of the coins?

6th. Whether foreign coins shall be permitted to be current or not; if the former, at what rate, and for what period?

A pre-requisite to determining with propriety, what ought to be the money unit of the United States, is to endeavor to form as accurate an idea as the nature of the case will admit, of what it actually is. The pound, though of various value, is the unit in the money of account of all the States. But it is not equally easy to pronounce what is to be considered as the unit in the coins. There being no formal regulation on the point, (the resolutions of

Congress of the 6th July, 1785, and 8th of August, 1786; having never yet been carried into operation) it can only be inferred from usage or practice. The manner of adjusting foreign exchanges, would seem to indicate the dollar as best entitled to that character. In these, the old piaster of Spain, or old Seville piece of eight *reals*, of the value of four shillings and six-pence sterling, is evidently contemplated. The computed par between Great Britain and Pennsylvania, will serve as an example. According to that, one hundred pounds sterling is equal to one hundred and sixty-six pounds and two-thirds of a pound, Pennsylvania currency; which corresponds with the proportion between 4*s.* 6*d.* sterling, and 7*s.* 6*d.* the current value of the dollar in that State, by invariable usage. And, as far as the information of the Secretary goes, the same comparison holds in the other States.

But this circumstance in favor of the dollar, loses much of its weight from two considerations. That species of coin has never had any settled or standard value, according to weight or fineness, but has been permitted to circulate by tale, without regard to either, very much as a mere money of convenience, while gold has had a fixed price by weight, and with an eye to its fineness. This greater stability of value of the gold coins is an argument of force for regarding the money unit as having been hitherto virtually attached to gold, rather than to silver.

Twenty-four grains and six-eighths of a grain of fine gold have corresponded with the nominal value of the dollar in the several States, without regard to the successive diminutions of its intrinsic worth.

But, if the dollar should, notwithstanding, be supposed to have the best title to being considered as the present unit in the coins, it would remain to determine what kind of dollar ought to be understood; or, in other words, what precise quantity of fine silver.

The old piaster of Spain, which appears to have regulated our foreign exchanges, weighed 17 dwt. 12 grains, and contained 386 grains and 15 mites of fine silver. But this piece has been long since out of circulation. The dollars now in common currency, are of recent date, and much inferior to that, both in weight and fineness. The average weight of them, upon different trials, in large masses, has been found to be 17 dwt. 8 grains. Their fineness is less precisely ascertained; the results of various assays, made by different persons, under the direction of the late Superintendent of the Finances, and of the Secretary, being as various as the assays themselves. The difference between their extremes is not less than 24 grains in a dollar of the same weight and age; which is too much for any probable differences in the pieces. It is rather to be presumed, that a degree of inaccuracy has been occasioned by the want of proper apparatus, and, in general, of practice. The experiment which appears to have the best pretensions to exactness would make the new dollar to contain 370 grains and 933 thousandth parts of a grain of pure silver.

According to an authority on which the Secretary places reliance, the standard of Spain, for its silver coin, in the year 1761, was 261 parts fine, and 27 parts alloy; at which proportion, a dollar of 17 dwt. 8 grains, would consist of 377 grains of fine silver, and 39 grains of alloy. But there is no question that this standard has been since altered considerably for the worse: to what precise point, is not as well ascertained as could be wished; but, from a computation of the value of dollars in the markets both of Amsterdam and London, (a criterion which cannot materially mislead) the new dollar appears to contain about 368 grains of fine silver, and that which immediately preceded it about 374 grains.

In this state of things, there is some difficulty in defining the dollar which is to be understood as constituting the present money unit, on the supposition of its being most applicable to that species of coin. The old Seville piece of 386 grains and 15 mites fine, comports best with the computations of foreign exchanges, and with the more ancient contracts respecting landed property; but far the greater number of contracts still in operation concerning that kind of property, and all those of a merely personal nature, now in force, must be referred to a dollar of a different kind. The actual dollar, at the time of contracting, is the only one which can be supposed to have been intended; and it has been seen, that, as long ago as the year 1761, there had been a material degradation of the standard. And even in regard to the more ancient contracts, no person has ever had any idea of a scruple about receiving the dollar of the day as a full equivalent for the nominal sum which the dollar originally imported.

A recurrence, therefore, to the ancient dollar, would be in the greatest number of cases an innovation *in fact*, and in all, an innovation in respect to opinion. The actual dollar in common circulation, has evidently a much better claim to be regarded as the actual money unit.

The mean intrinsic value of the different kinds of known dollars, has been intimated as affording the proper criterion. But, when it is recollected that the more ancient and more valuable ones are not now to be met with at all in circulation, and that the mass of those generally current, is composed of the newest and most inferior kinds, it will be perceived that even an equation of that nature, would be a considerable innovation upon the real present state of things; which it will certainly be prudent to approach, as far as may be consistent with the permanent order designed to be introduced.

An additional reason for considering the prevailing dollar as the standard of the present money unit, rather than the ancient one, is, that it will not only be conformable to the true existing proportion between the two metals in this country, but will be more conformable to that which obtains in the commercial world generally.

The difference established by custom in the United States, between coined gold and coined silver, has been stated upon another occasion, to be nearly as 1 to 15.6. This, if truly the case, would imply that gold was extremely overvalued in the United States: for the highest *actual proportion* in any part of Europe, very little, if at all, exceeds 1 to 15; and the average proportion throughout Europe, is probably not more than about one to 14½. But that statement has proceeded upon the idea of the ancient dollar. One pennyweight of gold of twenty-two carats fine, at 6*s.* 8*d.*, and the old Seville piece of 386 grains and 15 mites of pure silver, at 7*s.* 6*d.*, furnish the exact ratio of 1 to 15.6262. But this does not coincide with the real difference between the metals in our market, or, which in with us the same thing, in our currency. To determine this, the quantity of fine silver in the general mass of the dollars now in circulation, must afford the rule. Taking the rate of the late dollar of 374 grains, the proportion would be as 1 to 15.11. Taking the rate of the newest dollar, the proportion would then be as 1 to 14.87. The mean of the two would give the proportion of 1 to 15 very nearly; less than the legal proportion in the coins of Great Britain, which is as 1 to 15.2; but somewhat more than the actual or market proportion, which is not quite 1 to 15.

The preceding view of the subject does not indeed afford a precise or certain definition of the present unit in the coins, but it furnishes data which will serve as guides in the progress of the investigation. It ascertains, at least, that the sum in the money of account of each State, corresponding with the nominal value of the dollar in such State, corresponds also with 24 grains and ⅔ of a grain, of fine gold; and with something between 368 and 374 grains of fine silver.

The next inquiry towards a right determination of what ought to be the future money unit of the United States, turns upon these questions: Whether it ought to be peculiarly attached to either of the metals, in preference to the other, or not; and, if to either, to which of them?

The suggestions and proceedings, hitherto, have had for object, the annexing of it emphatically to the silver dollar. A resolution of Congress, of the 6th of July, 1785, declares that the money unit of the United States shall be a dollar: and another resolution of the 8th of August 1786 fixes that dollar at 37½ grains and 64 hundredths of a

whole, strongly inclined to the opinion, that a preference ought to be given to neither of the metals, for the money unit. Perhaps, if either were to be preferred, it ought to be gold rather than silver.

The reasons are these:

The inducement to such a preference is to render the unit as little variable as possible; because on this depends the steady value of all contracts, and, in a certain sense, of all other property. And, it is truly observed, that if the unit belong indiscriminately to both the metals, it is subject to all the fluctuations that happen in the relative value which they bear to each other. But the same reason would lead to annexing it to that particular one, which is itself the least liable to variation, if there be, in this respect, any discernible difference between the two.

Gold may, perhaps, in certain senses, be said to have greater stability than silver: as, being of superior value, less liberties have been taken with it, in the regulations of different countries: Its standard has remained more uniform, and it has, in other respects, undergone fewer changes: as, being not so much an article of merchandise, owing to the use made of silver in the trade with the East Indies and China, it is less liable to be influenced by circumstances of commercial demand. And if, reasoning by analogy, it could be affirmed, that there is a physical probability of greater proportional increase in the quantity of silver than in that of gold, it would afford an additional reason for calculating on greater steadiness in the value of the latter.

As long as gold, either from its intrinsic superiority as a metal, from its greater rarity, or from the prejudices of mankind, retains so considerable a pre-eminence in value over silver, as it has hitherto had, a natural consequence of this seems to be that its condition will be more stationary. The revolutions, therefore, which may take place in the comparative value of gold and silver, will be changes in the state of the latter, rather than in that of the former.

If there should be an appearance of too much abstraction in any of these ideas, it may be remarked, that the first and most simple impressions do not naturally incline to giving a preference to the inferior or least valuable of the two metals.

It is sometimes observed, that silver ought to be encouraged rather than gold, as being more conducive to the extension of bank circulation, from the greater difficulty and inconvenience which its greater bulk, compared with its value, occasions in the transportation of it. But bank circulation is desirable, rather as an *auxiliary* to, than as a *substitute* for that of the precious metals, and ought to be left to its natural course. Artificial expedients to extend it, by opposing obstacles to the other, are, at least, not recommended by any very obvious advantages. And, in general, it is the safest rule to regulate every particular institution or object, according to the principles which, in relation to itself, appear the most sound. In addition to this, it may be observed, that the inconvenience of transporting either of the metals, is sufficiently great to induce a preference of bank paper, whenever it can be made to answer the purpose equally well.

But, upon the whole, it seems to be most advisable, as has been observed, not to attach the unit exclusively to either of the metals; because this cannot be done effectually, without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise; which, accordingly, at different times, has been proposed from different and very respectable quarters; but which would, probably, be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals; especially, if care be taken to regulate the proportion between them, with an eye to their average commercial value.

To annul the use of either of the metals, as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty circulation.

It is not a satisfactory answer to say, that none but the favored metal would, in this case, find its way into the country, as in that all balances must be paid. The practicability of this would, in some measure, depend on the abundance or scarcity of it in the country paying. Where there was but little, it either would not be procurable at all, or it would cost a premium to obtain it; which, in every case of a competition with others, in a branch of trade, would constitute a deduction from the profits of the party receiving. Perhaps, too, the embarrassments which such a circumstance might sometimes create, in the pecuniary liquidation of balances, might lead to additional efforts to find a substitute in commodities, and might so far impede the introduction of the metals. Neither could the exclusion of either of them be deemed, in other respects, favorable to commerce. It is often, in the course of trade, as desirable to possess the kind of money, as the kind of commodities best adapted to a foreign market.

It seems, however, most probable, that the chief, if not the sole effect of such a regulation, would be to diminish the utility of one of the metals. It could hardly prove an obstacle to the introduction of that which was excluded in the natural course of trade; because it would always command a ready sale, for the purpose of exportation to foreign markets. But such an effect, if the only one, is not to be regarded as a trivial inconvenience.

If, then, the unit ought not to be attached exclusively to either of the metals, the proportion which ought to subsist between them, in the coins, becomes a preliminary inquiry, in order to its proper adjustment. This proportion appears to be, in several views, of no inconsiderable moment.

One consequence of overvaluing either metal, in respect to the other, is the banishment of that which is undervalued. If two countries are supposed, in one of which, the proportion of gold to silver is as 1 to 16, in the other as 1 to 15, gold being worth more, silver less, in one than in the other, it is manifest, that, in their reciprocal payments, each will select that species which it values least, to pay to the other, where it is valued most. Besides this, the dealers in money will, from the same cause, often find a profitable traffic in an exchange of the metals between the two countries. And hence it would come to pass, if other things were equal, that the greatest part of the gold would be collected in one, and the greatest part of the silver in the other. The course of trade might, in some degree, counteract the tendency of the difference in the legal proportions, by the market value; but this is so far and so often influenced by the legal rates, that it does not prevent their producing the effect which is inferred. Facts, too, verify the inference: In Spain and England, where gold is rated higher than in other parts of Europe, there is a scarcity of silver; while it is found to abound in France and Holland, where it is rated higher, in proportion to gold, than in the neighboring nations. And it is continually flowing from Europe to China and the East Indies, owing to the comparative cheapness of it in the former, and dearth of it in the latter.

This consequence is deemed by some not very material; and there are even persons, who, from a fanciful predilection to gold, are willing to invite it, even by a higher price. But general utility will best be promoted by a due proportion of both metals. If gold be most convenient in large payments, silver is best adapted to the more minute and ordinary circulation.

But it is to be suspected, that there is another consequence more serious than the one which has been mentioned. This is the diminution of the total quantity of specie which a country would naturally possess.

It is evident that, as often as a country, which overrates either of the metals, receives a payment in that metal, it gets a less actual quantity than it ought to do, or than it would do, if the rate were a just one.

What influence the proportion under consideration may have upon the state of prices, and how far this may counteract its tendency to increase or lessen the quantity of the metals, are points not easy to be developed; and yet they are very necessary to an accurate judgment of the true operation of the thing.

But, however impossible it may be to pronounce with certainty, that the possession of a less quantity of specie is a consequence of overvaluing either of the metals, there is enough of probability in the considerations which seem to indicate it, to form an argument of weight against such overvaluation.

A third ill consequence resulting from it is, a greater and more frequent disturbance of the state of the money unit, by a greater and more frequent diversity between the legal and market proportions of the metals. This has not hitherto been experienced in the United States, but it has been experienced elsewhere; and from its not having been felt by us hitherto, it does not follow that this will not be the case hereafter, when our commerce shall have attained a maturity which will place it under the influence of more fixed principles.

In establishing a proportion between the metals, there seems to be an option of one of two things—

To approach, as nearly as it can be ascertained, the mean or average proportion, in what may be called the commercial world; or,

To retain that which now exists in the United States. As far as these happen to coincide, they will render the course to be pursued more plain and more certain.

To ascertain the first, with precision, would require better materials than are possessed, or than could be obtained, without an inconvenient delay.

Sir Isaac Newton, in a representation to the treasury of Great Britain, in the year 1717, after stating the particular proportions in the different countries of Europe, concludes thus:—"By the course of trade and exchange between nation and nation, in all Europe, fine gold is to fine silver as 14½ or 15 to 1."

But however accurate and decisive this authority may be deemed, in relation to the period to which it applies, it cannot be taken, at the distance of more than seventy years, as a rule for determining the existing proportion. Alterations have been since made, in the regulations of their coins, by several nations; which, as well as the course of trade, have an influence upon the market values. Nevertheless, there is reason to believe, that the state of the matter, as represented by Sir Isaac Newton, is not very remote from its actual state.

In Holland, the greatest money market of Europe, gold was to silver, in December, 1789, as 1 to 14.88; and in that of London, it has been, for some time past, but little different, approaching, perhaps, something nearer 1 to 15.

It has been seen that the existing proportion between the two metals, in this country, is about as 1 to 15. It is fortunate, in this respect, that the innovations of the Spanish mint have imperceptibly introduced a proportion so analogous as this is, to that which prevails among the principal commercial nations; as it greatly facilitates a proper regulation of the matter.

This proportion of 1 to 15 is recommended by the particular situation of our trade, as being very nearly that which obtains in the market of Great Britain, to which nation our specie is principally exported. A lower rate for either of the metals, in our market, than in hers, might not only afford a motive the more, in certain cases, to remit in specie rather than in commodities; but it might, in some others, cause us to pay a greater quantity of it for a given sum, than we should otherwise do. If the effect should rather be to occasion a premium to be given for the metal which was under-rated, this would obviate those disadvantages, but it would involve another—a customary difference between the market and legal proportions, which would amount to a species of disorder in the national coinage.

Looking forward to the payments of interest hereafter to be made to Holland, the same proportion does not appear ineligible. The present legal proportion in the coins of Holland is stated to be 1 to 14½. That of the market varies somewhat, at different times, but seldom very widely from this point.

There can hardly be a better rule in any country, for the legal, than the market proportion, if this can be supposed to have been produced by the free and steady course of commercial principles. The presumption, in such case, is, that each metal finds its true level, according to its intrinsic utility, in the general system of money operations.

But it must be admitted, that this argument, in favor of continuing the existing proportion, is not applicable to the state of the coins with us. There have been too many artificial and heterogeneous ingredients, too much want of order in the pecuniary transactions of this country, to authorize the attributing the effects which have appeared to the regular operations of commerce. A proof of this is to be drawn from the alterations which have happened in the proportion between the metals merely by the successive degradations of the dollar, in consequence of the mutability of a foreign mint. The value of gold to silver appears to have declined wholly from this cause, from 15½ to about 15 to 1. Yet, as this last proportion, however produced, coincides so nearly with what may be deemed the commercial average, it may be supposed to furnish as good a rule as can be pursued.

The only question seems to be, whether the value of gold ought not to be a little lowered to bring it to a more exact level with the two markets which have been mentioned. But as the ratio of 1 to 15 is so nearly conformable to the state of those markets, and best agrees with that of our own, it will probably be found the most eligible. If the market of Spain continues to give a higher value to gold (as it has done in time past) than that which is recommended, there may be some advantage in a middle station.

A further preliminary to the adjustment of the future money unit, is, to determine what shall be the proportion and composition of alloy in each species of the coins.

The first, by the resolution of the 8th of August, 1786, before referred to, is regulated at one-twelfth, or in other words, at 1 part alloy to 11 parts fine, whether gold or silver; which appears to be a convenient rule; unless there should be some collateral consideration which may dictate a departure from it. Its correspondence, in regard to both metals, is a recommendation of it, because a difference could answer no purpose of pecuniary or commercial utility, and uniformity is favorable to order.

This ratio, as it regards gold, coincides with the proportion, real or professed, in the coins of Portugal, England, France, and Spain. In those of the two former, it is real. In those of the two latter, there is a deduction for what is called *remedy of weight and alloy*, which is in the nature of an allowance to the master of the mint for errors and imperfections in the process, rendering the coin either lighter or baser than it ought to be. The same thing is known in the theory of the English mint, where ⅔ of a carat is allowed. But the difference seems to be, that there, it is merely an occasional indemnity within a certain limit, for real and unavoidable errors and imperfections; whereas, in the practice of the mints of France and Spain, it appears to amount to a stated and regular deviation from the nominal standard. Accordingly, the real standards of France and Spain are something worse than 22 carats, or 11 parts in 12 fine.

The principal gold coins in Germany, Holland, Sweden, Denmark, Poland, and Italy, are finer than those of England and Portugal, in different degrees, from 1 carat and a ¼ to 1 carat and ⅓, which last is within ⅓ of a carat

The component ingredients of the alloy in each metal will also require to be regulated. In silver, copper is the only kind in use, and it is doubtless the only proper one. In gold, there is a mixture of silver and copper; in the English coins consisting of equal parts; in the coins of some other countries, varying from $\frac{1}{2}$ to $\frac{3}{4}$ silver.

The reason of this union of silver with copper is this: The silver counteracts the tendency of the copper to injure the color or beauty of the coin, by giving it too much redness, or rather a coppery hue, which a small quantity will produce; and the copper prevents the too great whiteness which silver alone would confer. It is apprehended, that there are considerations which may render it prudent to establish, by law, that the proportion of silver to copper, in the gold coins of the United States, shall not be more than $\frac{1}{2}$, nor less than $\frac{1}{3}$; vesting a discretion in some proper place to regulate the matter within those limits, as experience in the execution may recommend.

A third point remains to be discussed, as a pre-requisite to the determination of the money unit, which is, whether the expense of coining shall be defrayed by the public, or out of the material itself; or, as it is sometimes stated, whether coinage shall be free, or shall be subject to a duty or imposition? This forms, perhaps, one of the nicest questions in the doctrine of money.

The practice of different nations is dissimilar in this particular. In England, coinage is said to be entirely free: the mint price of the metals in bullion, being the same with the value of them in coin. In France, there is a duty, which has been, if it is not now, eight per cent. In Holland, there is a difference between the mint price and the value in the coins, which has been computed at .96, or something less than one per cent. upon gold; at 1.48, or something less than one and a half per cent. upon silver. The resolution of the 8th of August, 1786, proceeds upon the idea of a deduction of half per cent. from gold, and of two per cent. from silver, as an indemnification for the expense of coining. This is inferred from a report of the late Board of Treasury, upon which that resolution appears to have been founded.

Upon the supposition that the expense of coinage ought to be defrayed out of the metals, there are two ways in which it may be effected: one by a reduction of the quantity of fine gold and silver in the coins, the other by establishing a difference between the value of those metals in the coins, and the mint price of them in bullion.

The first method appears to the Secretary inadmissible. He is unable to distinguish an operation of this sort, from that of raising the denomination of the coin—a measure which has been disapproved by the wisest men of the nations in which it has been practised, and condemned by the rest of the world. To declare that a less weight of gold or silver shall pass for the same sum, which before represented a greater weight, or to ordain that the same weight shall pass for a greater sum, are things substantially of one nature. The consequence of either of them, if the change can be realized, is to degrade the money unit; obliging creditors to receive less than their just dues, and depreciating property of every kind. For it is manifest, that every thing would, in this case, be represented by a less quantity of gold and silver than before.

It is sometimes observed, on this head, that, though any article of property might, in fact, be represented by a less actual quantity of pure metal, it would nevertheless be represented by something of the same intrinsic value. Every fabric, it is remarked, is worth intrinsically the price of the raw material and the expense of fabrication; a truth not less applicable to a piece of coin than to a yard of cloth.

This position, well founded in itself, is here misapplied. It supposes, that the coins now in circulation are to be considered as bullion, or, in other words, as a raw material. But the fact is, that the adoption of them as money, has caused them to become the fabric; it has invested them with the character and office of coins, and has given them a sanction and efficacy, equivalent to that of the stamp of the sovereign. The prices of all our commodities, at home and abroad, and of all foreign commodities in our markets, have found their level in conformity to this principle. The foreign coins may be divested of the privilege they have hitherto been permitted to enjoy, and may of course be left to find their value in the market as a raw material. But the quantity of gold and silver in the national coins, corresponding with a given sum, cannot be made less than heretofore, without disturbing the balance of intrinsic value, and making every acre of land, as well as every bushel of wheat, of less actual worth than in time past. If the United States were isolated, and cut off from all intercourse with the rest of mankind, this reasoning would not be equally conclusive. But it appears decisive, when considered with a view to the relations which commerce has created between us and other countries.

It is, however, not improbable, that the effect meditated would be defeated by a rise of prices proportioned to the diminution of the intrinsic value of the coins. This might be looked for in every enlightened commercial country; but, perhaps, in none with greater certainty than in this; because, in none, are men less liable to be the dupes of sounds; in none, has authority so little resource for substituting names for things.

A general revolution in prices, though only nominally, and in appearance, could not fail to distract the ideas of the community, and would be apt to breed discontents as well among all those who live on the income of their money, as among the poorer classes of the people, to whom the necessities of life would seem to have become dearer. In the confusion of such a state of things, ideas of value would not improbably adhere to the old coins, which, from that circumstance, instead of feeling the effect of the loss of their privilege as money, would, perhaps, bear a price in the market, relatively to the new ones, in exact proportion to weight. The frequency of the demand for the metals to pay foreign balances, would contribute to this effect.

Among the evils attendant on such an operation, are these: creditors, both of the public and of individuals, would lose a part of their property; public and private credit would receive a wound; the effective revenues of the Government would be diminished. There is scarcely any point, in the economy of national affairs, of greater moment than the uniform preservation of the intrinsic value of the money unit. On this, the security and steady value of property essentially depend.

The second method, therefore, of defraying the expense of the coinage out of the metals, is greatly to be preferred to the other. This is to let the same sum of money continue to represent in the new coins exactly the same quantity of gold and silver as it does in those now current—to allow at the mint such a price only for those metals as will admit of profit just sufficient to satisfy the expense of coinage; to abolish the legal currency of the foreign coins, both in public and private payments; and, of course, to leave the superior utility of the national coins for domestic purposes, to operate the difference of market value, which is necessary to induce the bringing of bullion to the mint. In this case, all property and labor will still be represented by the same quantity of gold and silver as formerly; and the only change which will be wrought, will consist in annexing the office of money exclusively to the national coins; consequently, withdrawing it from those of foreign countries, and suffering them to become, as they ought to be, mere articles of merchandise.

The arguments in favor of a regulation of this kind are, first: That the want of it is a cause of extra expense; there being, then, no motive of individual interest to distinguish between the national coins and bullion, they are, it is alleged, indiscriminately melted down for domestic manufactures, and exported for the purposes of foreign trade; and it is added, that when the coins become light by wearing, the same quantity of fine gold or silver bears a higher price in bullion than in the coins; in which state of things, the melting down of the coins to be sold as bullion is at-

And as guineas were then current by *tale*, the new ones, as they issued from the mint, were confounded in circulation with the old ones; and by the association, were depreciated below the intrinsic value, in comparison with bullion. It became of course a profitable traffic to sell bullion for coin, to select the light pieces, and re-issue them in currency, and to melt down the heavy ones, and sell them again as bullion. This practice, besides other inconveniences, cost the Government large sums in the renewal of the coins.

But the remainder of the argument stands upon ground far more questionable. It depends upon very numerous and very complex combinations, in which there is infinite latitude for fallacy and error.

The most plausible part of it, is that which relates to the course of exchange. Experience in France has shown that the market price of bullion has been influenced by the mint difference between that and coin; sometimes to the full extent of the difference; and it would seem to be a clear inference, that, whenever that difference materially exceeded the charges of remitting bullion from the country where it existed, to another in which coinage was free, exchange would be in favor of the former.

If, for instance, the balance of trade between France and England were at any time equal, their merchants would naturally have reciprocal payments to make to an equal amount, which, as usual, would be liquidated by means of bills of exchange. If in this situation the difference between coin and bullion should be, in the market, as at the mint of France, eight per cent.; if, also, the charges of transporting money from France to England, should not be above two per cent.; and if exchange should be at par, it is evident that a profit of six per cent. might be made, by sending bullion from France to England, and drawing bills for the amount. One hundred louis d'ors in coin, would purchase the weight of one hundred and eight in bullion; one hundred of which, remitted to England, would suffice to pay a debt of an equal amount; and two being paid for the charges of insurance and transportation, there would remain six for the benefit of the person who should manage the negotiation. But as so large a profit could not fail to produce competition; the bills, in consequence of this, would decrease in price, till the profit was reduced to the *minimum* of an adequate recompense for the trouble and risk. And, as the amount of one hundred louis d'ors in England, might be afforded for ninety-six in France, with a profit of more than one and a half per cent., bills upon England might fall, in France, to four per cent. below par; one per cent. being a sufficient profit to the exchanger or broker for the management of the business.

But it is *admitted* that this advantage is lost, when the balance of trade is against the nation which imposes the duty in question; because, by increasing the demand for bullion, it brings this to a par with the coins; and it is to be *suspected*, that where commercial principles have their free scope, and are well understood, the market difference between the metals in coin and bullion, will seldom approximate to that of the mint, if the latter be considerable. It must be not a little difficult to keep the money of the world, which can be employed to an equal purpose in the commerce of the world, in a state of degradation, in comparison with the money of a particular country.

This alone would seem sufficient to prevent it: Whenever the price of coin to bullion, in the market, materially exceeded the par of the metals, it would become an object to send the bullion abroad, if not to pay a foreign balance, to be invested in some other way, in foreign countries, where it bore a superior value; an operation by which immense fortunes might be amassed, if it were not that the exportation of the bullion would of itself restore the intrinsic par. But, as it would naturally have this effect, the advantage supposed would contain in itself the principle of its own destruction. As long, however, as the exportation of bullion could be made with profit, which is as long as exchange could remain below par, there would be a drain of the gold and silver of the country.

If any thing can maintain, for a length of time, a material difference between the value of the metals in coin and in bullion, it must be a constant and considerable balance of trade in favor of the country in which it is maintained. In one situated like the United States, it would in all probability be a hopeless attempt. The frequent demand for gold and silver, to pay balances to foreigners, would tend powerfully to preserve the equilibrium of intrinsic value.

The prospect is, that it would occasion foreign coins to circulate by common consent, nearly at par with the national.

To say that, as far as the effect of lowering exchange is produced, though it be only occasional and momentary, there is a benefit the more thrown into the scale of public prosperity, is not satisfactory. It has been seen, that it may be productive of one evil, the investment of a part of the national capital in foreign countries; which can hardly be beneficial but in a situation like that of the United Netherlands, where an immense capital, and a decrease of internal demand, render it necessary to find employment for money in the wants of other nations; and, perhaps on a close examination, other evils may be described.

One allied to that which has been mentioned is this—taking France, for the sake of more concise illustration, as the scene. Whenever it happens that French louis d'ors are sent abroad, from whatever cause, if there be a considerable difference between coin and bullion, in the market of France, it will constitute an advantageous traffic to send back these louis d'ors, and bring away bullion in lieu of them; upon all which exchanges, France must sustain an actual loss of a part of its gold and silver.

Again, such a difference between coin and bullion may tend to counteract a favorable balance of trade. Whenever a foreign merchant is the carrier of his own commodities to France for sale, he has a strong inducement to bring back specie, instead of French commodities; because a return in the latter may afford no profit, may even be attended with loss; in the former, it will afford a certain profit. The same principle must be supposed to operate in the general course of remittances from France to other countries. The principal question with a merchant, naturally is, in what manner can I realize a given sum, with most advantage, where I wish to place it? And, in cases in which other commodities are not likely to produce equal profit with bullion, it may be expected that this will be preferred; to which the greater certainty attending the operation must be an additional incitement. There can hardly be imagined a circumstance less friendly to trade, than the existence of an extra inducement arising from the possibility of a profitable speculation upon the articles themselves, to export from a country its gold and silver, rather than the products of its land and labor.

The other advantages supposed, of obliging foreigners to pay dearer for domestic commodities, and to sell their own cheaper, are applied to a situation which includes a favorable balance of trade. It is understood in this sense—the prices of domestic commodities, (such, at least, as are peculiar to the country) remain attached to the denominations of the coins. When a favorable balance of trade realizes in the market the mint difference between coin and bullion, foreigners, who must pay in the latter, are obliged to give more of it for such commodities than they otherwise would do. Again, the bullion, which is now obtained at a cheaper rate in the home market, will procure the same quantity of goods in the foreign market, as before; which is said to render foreign commodities cheaper. In this reasoning, much fallacy is to be suspected. If it be true, that foreigners pay more for domestic commodities, it must be equally true that they get more for their own when they bring them themselves to market. If peculiar, or other domestic commodities adhere to the denominations of the coins, no reason occurs why foreign commodities of a like character should not do the same thing; and, in this case, the foreigner, though he receive only the same value in coin for his merchandise as formerly, can convert it into a greater quantity of bullion. Whence the nation is liable to

to bring it back to its old one. Every source of artificial interruption to an advantageous current, is, therefore, cautiously to be avoided.

It merits attention, that the able minister, who lately and so long presided over the finances of France, does not attribute to the duty of coinage in that country, any particular advantages in relation to exchange and trade. Though he rather appears an advocate for it, it is on the sole ground of the revenue it affords, which he represents as in the nature of a very moderate duty on the general mass of exportation.

And it is not improbable that, to the singular felicity of situation of that kingdom, is to be attributed its not having been sensible of the evils which seem incident to the regulation. There is, perhaps, no part of Europe which has so little need of other countries as France. Comprehending a variety of soils and climates, an immense population, its agriculture in a state of mature improvement, it possesses within its own bosom, most, if not all, the productions of the earth, which any of its most favored neighbors can boast. The variety, abundance, and excellence of its wines, constitute a peculiar advantage in its favor. Arts and manufactures are there also in a very advanced state; some of them, of considerable importance, in higher perfection than elsewhere. Its contiguity to Spain; the intimate nature of its connexion with that country—a country with few fabrics of its own, consequently numerous wants, and the principal receptacle of the treasures of the new world: these circumstances concur, in securing to France so uniform and so considerable a balance of trade, as in a great measure to counteract the natural tendency of any errors which may exist in the system of her mint; and to render inferences from the operation of that system there, in reference to this country, more liable to mislead than to instruct. Nor ought it to pass unnoticed, that, with all these advantages, the Government of France has found it necessary, on some occasions, to employ very violent methods to compel the bringing of bullion to the mint—a circumstance, which affords a strong presumption of the inexpediency of the regulation, and of the impracticability of executing it in the United States.

This point has been the longer dwelt upon, not only because there is a diversity of opinion among speculative men concerning it, and a diversity in the practice of the most considerable commercial nations, but because the acts of our own Government, under the confederation, have not only admitted the expediency of defraying the expense of coinage out of the metals themselves, but upon this idea have both made a deduction from the weight of the coins, and established a difference between their regulated value and the mint price of bullion, greater than would result from that deduction. This double operation in favor of a principle so questionable in itself, has made a more particular investigation of it a duty.

The intention, however, of the preceding remarks, is rather to show that the expectation of commercial advantages ought not to decide in favor of a duty of coinage; and that, if it should be adopted, it ought not to be in the form of a deduction from the intrinsic value of the coins, than absolutely to exclude the idea of any difference whatever, between the value of the metals in coin and in bullion. It is not clearly discerned, that a small difference between the mint price of bullion and the regulated value of the coins would be pernicious, or that it might not even be advisable, in the first instance, by way of experiment, merely as a preventive to the melting down and exportation of the coins. This will, now, be somewhat more particularly considered.

The arguments for a coinage entirely free, are, that it preserves the intrinsic value of the metals; that it makes the expense of fabrication a general instead of partial tax; and that it tends to promote the abundance of gold and silver, which, it is alleged, will flow to that place where they find the best price, and from that place where they are in any degree undervalued.

The first consideration has not much weight, as an objection to a plan which, without diminishing the quantity of metals in the coins, merely allows a less price for them in bullion at the national factory or mint. No rule of intrinsic value is violated, by considering the raw material as worth less than the fabric in proportion to the expense of fabrication. And by divesting foreign coins of the privilege of circulating as money, they become the raw material.

The second consideration has perhaps greater weight. But it may not amount to an objection, if it be the best method of preventing disorders in the coins, which it is, in a particular manner, the interest of those, on whom the tax would fall, to prevent. The practice of taking gold by weight, which has of late years obtained in Great Britain, has been found, in some degree, a remedy; but this is inconvenient, and may, on that account, fall into disuse. Another circumstance has had a remedial operation. This is the delays of the mint. It appears to be the practice there, not to make payment for the bullion which is brought to be exchanged for coin, till it either has in fact, or is pretended to have undergone the process of recoinage.

The necessity of fulfilling prior engagements, is a cause or pretext for postponing the delivery of the coin in lieu of the bullion. And this delay creates a difference in the market price of the two things. Accordingly, for some years past, an ounce of standard gold, which is worth in coin £3 17s. 10½d. sterling, has been in the market of London, in bullion, only £3 17s. 6d., which is within a small fraction of one half per cent. less. Whether this be management in the mint, to accommodate the bank in the purchase of bullion, or to effect indirectly something equivalent to a formal difference of price, or whether it be the natural course of the business, is open to conjecture.

It, at the same time, indicates that, if the mint were to make prompt payment, at about half per cent. less than it does at present, the state of bullion in respect to coin, would be precisely the same as it now is. And it would be then certain, that the Government would save expense in the coinage of gold; since it is not probable that the time actually lost in the course of the year, in converting bullion into coin, can be an equivalent to half per cent. on the advance, and there will generally be at the command of the treasury a considerable sum of money waiting for some periodical disbursement, which, without hazard, might be applied to that advance.

In what sense a free coinage can be said to promote the abundance of gold and silver, may be inferred from the instances which have been given of the tendency of a contrary system to promote their exportation. It is, however, not probable, that a very small difference of value between coin and bullion can have any effect which ought to enter into calculation. There can be no inducement of positive profit, to export the bullion, as long as the difference of price is exceeded by the expense of transportation. And the prospect of smaller loss upon the metals than upon commodities, when the difference is very minute, will be frequently overbalanced by the possibility of doing better with the latter, from a rise of markets. It is, at any rate, certain, that it can be of no consequence in this view, whether the superiority of coin to bullion in the market, be produced, as in England, by the delay of the mint, or by a formal discrimination in the regulated values.

Under an impression that a small difference between the value of the coin and the mint price of bullion, is the least exceptionable expedient for restraining the melting down, or exportation of the former, and not perceiving that, if it be a very moderate one, it can be hurtful in other respects, the Secretary is inclined to an experiment of one half per cent. on each of the metals. The fact which has been mentioned, with regard to the price of gold bullion in the

value, nevertheless, according to the quantity of pure metal they contain. This, it is supposed, by adding to the difficulty of refining them, would cause bullion to be preferred, both for manufacture and exportation.

But strong objections lie against this scheme—an augmentation of expense; an actual depreciation of the coin; a danger of still greater depreciation in the public opinion; the facilitating of counterfeits; while it is questionable whether it would have the effect expected from it.

The alloy being esteemed of no value, an increase of it is evidently an increase of expense. This, in relation to the gold coins, particularly, is a matter of moment. It has been noted, that the alloy in them consists partly of silver. If, to avoid expense, the addition should be of copper only, this would spoil the appearance of the coin, and give it a base countenance. Its beauty would indeed be injured, though in a less degree, even if the usual proportions of silver and copper should be maintained in the increased quantity of alloy.

And, however inconsiderable an additional expenditure of copper in the coinage of a year may be deemed, in a series of years it would become of consequence. In regulations which contemplate the lapse and operation of ages, a very small item of expense acquires importance.

The actual depreciation of the coin by an increase of alloy, results from the very circumstance which is the motive to it—the greater difficulty of refining. In England, it is customary for those concerned in manufactures of gold, to make a deduction in the price of four-pence sterling per ounce, of fine gold, for every carat which the mass containing it, is below the legal standard. Taking this as a rule, an inferiority of a single carat, or one twenty-fourth part in the gold coins of the United States, compared with the English standard, would cause the same quantity of pure gold in them to be worth nearly four-tenths per cent. less than in the coins of Great Britain. This circumstance would be likely, in process of time, to be felt in the market of the United States.

A still greater depreciation, in the public opinion, would be to be apprehended from the *apparent* debasement of the coin. The effects of imagination and prejudice cannot safely be disregarded in any thing that relates to money. If the beauty of the coin be impaired, it may be found difficult to satisfy the generality of the community, that what appears worst is not really less valuable; and it is not altogether certain, that an impression of its being so, may not occasion an unnatural augmentation of prices.

Greater danger of imposition, by counterfeits, is also to be apprehended from the injury which will be done to the appearance of the coin. It is a just observation, that “the perfection of the coins is a great safeguard against counterfeits.” And it is evident that the color, as well as the excellence of the workmanship, is an ingredient in that perfection. The intermixture of too much alloy, particularly of copper, in the gold coins at least, must materially lessen the facility of distinguishing, by the eye, the purer from the baser kind—the genuine from the counterfeit.

The inefficacy of the arrangement to the purpose intended to be answered by it, is rendered probable by different considerations. If the standard of plate in the United States should be regulated according to that of the national coins, it is to be expected that the goldsmith would prefer these to the foreign coins, because he would find them prepared to his hand, in the state which he desires; whereas he would have to *expend* an additional quantity of alloy to bring the foreign coins to that state. If the standard of plate, by law or usage, should be superior to that of the national coins, there would be a possibility of the foreign coins bearing a higher price in the market; and this would not only obstruct their being brought to the mint, but might occasion the exportation of the national coin in preference. It is not understood, that the practice of making an abatement of price for the inferiority of standard, is applicable to the English mint; and if it be not, this would also contribute to frustrating the expected effect from the increase of alloy. For, in this case, a given quantity of pure metal, in our standard, would be worth as much there, as in bullion of the English, or any other standard.

Considering, therefore, the uncertainty of the success of the expedient, and the inconveniences which seem incident to it, it would appear preferable to submit to those of a free coinage. It is observable, that additional expense, which is one of the principal of these, is also applicable to the proposed remedy.

It is now proper to resume and finish the answer to the first question, in order to which the three succeeding ones have necessarily been anticipated. The conclusion to be drawn from the observations which have been made on the subject, is this: That the unit, in the coins of the United States, ought to correspond with 24 grains and $\frac{2}{3}$ of a grain of pure gold, and with 371 grains and $\frac{1}{4}$ of a grain of pure silver, each answering to a dollar in the money of account. The former is exactly agreeable to the present value of gold, and the latter is within a small fraction of the mean of the two last emissions of dollars—the only ones which are now found in common circulation, and of which the newest is in the greatest abundance. The alloy in each case to be one-twelfth of the total weight, which will make the unit 27 grains of standard gold, and 405 grains of standard silver.

Each of these, it has been remarked, will answer to a dollar in the money of account. It is conceived that nothing better can be done in relation to this, than to pursue the track marked out by the resolution of the 8th August, 1786. This has been approved abroad, as well as at home, and it is certain that nothing can be more simple and convenient than the decimal sub-divisions. There is every reason to expect that the method will speedily grow into general use, when it shall be seconded by corresponding coins. On this plan, the unit in the money of account will continue to be, as established by that resolution, a dollar; and its multiples, dimes, cents, and mills, or tenths, hundredths, and thousandths.

With regard to the number of different pieces which shall compose the coins of the United States, two things are to be consulted—convenience of circulation, and cheapness of the coinage. The first ought not to be sacrificed to the last; but as far as they can be reconciled to each other, it is desirable to do it. Numerous and small (if not too minute) sub-divisions assist circulation; but the multiplication of the smaller kinds increases expense; the same process being necessary to a small as to a large piece.

As it is easy to add, it will be most advisable to begin with a small number, till experience shall decide whether any other kinds are necessary. The following, it is conceived, will be sufficient in the commencement:

One gold piece, equal in weight and value to ten units, or dollars.

One gold piece, equal to a tenth part of the former, and which shall be a unit or dollar.

One silver piece, which shall also be a unit or dollar.

One silver piece, which shall be, in weight and value, a tenth part of the silver unit or dollar.

One copper piece, which shall be of the value of a hundredth part of a dollar.

One other copper piece, which shall be half the value of the former.

It is not proposed that the lightest piece of the two gold coins should be numerous, as, in large payments, the larger the pieces, the shorter the process of counting, the less risk of mistake, and, consequently, the greater the safety and the convenience; and, in small payments, it is not perceived that any inconvenience can accrue from an entire dependence on the silver and copper coins. The chief inducement to the establishment of the small gold

which it is designed to be a substitute, which will facilitate its ready adoption as such, in the minds of the citizens. The dime, or tenth; the cent, or hundredth; the mill, or thousandth, are proper, because they express the proportions which they are intended to designate. It is only to be regretted, that the meaning of these terms will not be familiar to those who are not acquainted with the language from which they are borrowed. It were to be wished that the length, and, in some degree, the clumsiness of some of the corresponding terms in English, did not discourage from preferring them. It is useful to have names which signify the things to which they belong; and, in respect to objects of general use, in a manner intelligible to all. Perhaps it might be an improvement to let the dollar have the appellation either of dollar, or unit, (which last will be the most significant) and to substitute "tenth" for dime. In time, the unit may succeed to the dollar. The word cent, being in use in various transactions and instruments, will, without much difficulty, be understood as the hundredth, and the half cent, of course, as the two-hundredth part.

The eagle is not a very expressive or apt appellation for the largest gold piece, but nothing better occurs. The smallest of the two gold coins, may be called the dollar, or unit, in common with the silver piece with which it coincides.

The volume or size of each piece, is a matter of more consequence than its denomination. It is evident, that the more superficies, or surface, the more the piece will be liable to be injured by friction, or, in other words, the faster it will wear. For this reason, it is desirable to render the thickness as great, in proportion to the breadth, as may consist with neatness and good appearance. Hence, the form of the double guinea, or double louis d'or, is preferable to that of the half johannes, for the large gold piece. The small one cannot well be of any other size than the Portuguese piece of eight, of the same metal.

As it is of consequence to fortify the idea of the identity of the dollar, it may be best to let the form and size of the new one, as far as the quantity of matter (the alloy being less) permits, agree with the form and size of the present. The diameter may be the same.

The tenths may be in a mean between the Spanish $\frac{1}{10}$ and $\frac{1}{20}$ of a dollar.

The copper coins may be formed, merely with a view to good appearance, as, any difference in the wearing that can result from difference of form, can be of little consequence in reference to that metal.

It is conceived that the weight of the cent may be eleven pennyweight, which will about correspond with the value of the copper, and the expense of coinage. This will be to conform to the rule of intrinsic value, as far as regard to the convenient size of the coins will permit; and the deduction of the expense of coinage in this case, will be the more proper, as the copper coins, which have been current hitherto, have passed, till lately, for much more than their intrinsic value. Taking the weight, as has been suggested, the size of the cent may be nearly that of the piece herewith transmitted, which weighs 10dwt. 11grs. 10 m. Two-thirds of the diameter of the cent will suffice for the diameter of the half cent.

It may, perhaps, be thought expedient, according to general practice, to make the copper coinage an object of profit, but, where this is done to any considerable extent, it is hardly possible to have effectual security against counterfeits. This consideration, concurring with the soundness of the principle of preserving the intrinsic value of the money of a country, seems to outweigh the consideration of profit.

The foregoing suggestions respecting the sizes of the several coins, are made on the supposition that the Legislature may think fit to regulate this matter. Perhaps, however, it may be judged not unadvisable to leave it to Executive discretion.

With regard to the proposed size of the cent, it is to be confessed, that it is rather greater than might be wished, if it could, with propriety and safety, be made less; and should the value of copper continue to decline, as it has done for some time past, it is very questionable whether it will long remain alone a fit metal for money. This has led to a consideration of the expediency of uniting a small proportion of silver with the copper, in order to be able to lessen the bulk of the inferior coins. For this, there are precedents in several parts of Europe. In France, the composition which is called billon, has consisted of one part silver and four parts copper; according to which proportion, a cent might contain seventeen grains, defraying out of the material the expense of coinage. The convenience of size is a recommendation of such a species of coin, but the Secretary is deterred from proposing it, by the apprehension of counterfeits. The effect of so small a quantity of silver, in, comparatively, so large a quantity of copper, could easily be imitated, by a mixture of other metals of little value, and the temptation to doing it would not be inconsiderable.

The devices of the coins are far from being matters of indifference, as they may be made the vehicles of useful impressions. They ought, therefore, to be emblematical, but without losing sight of simplicity. The fewer sharp points and angles there are, the less will be the loss by wearing. The Secretary thinks it best, on this head, to confine himself to these concise and general remarks.

The last point to be discussed, respects the currency of foreign coins.

The abolition of this, in proper season, is a necessary part of the system contemplated for the national coinage. But this it will be expedient to defer, till some considerable progress has been made in preparing substitutes for them. A gradation may, therefore, be found most convenient.

The foreign coins may be suffered to circulate, precisely upon their present footing, for one year after the mint shall have commenced its operations. The privilege may then be continued for another year, to the gold coins of Portugal, England, and France, and to the silver coins of Spain. And these may still be permitted to be current for one year more, at the rates allowed to be given for them at the mint; after the expiration of which, the circulation of all foreign coins to cease.

The moneys which will be paid into the treasury during the first year, being re-coined, before they are issued anew, will afford a partial substitute, before any interruption is given to the pre-existing supplies of circulation. The revenues of the succeeding year, and the coins which will be brought to the mint in consequence of the discontinuance of their currency, will materially extend the substitute in the course of that year, and its extension will be so far increased during the third year, by the facility of procuring the remaining species to be re-coined, which will arise from the diminution of their current values, as probably to enable the dispensing wholly with the circulation of the foreign coins, after that period. The progress which the currency of bank bills will be likely to have made, during the same time, will, also, afford a substitute of another kind.

This arrangement, besides avoiding a sudden stagnation of circulation, will cause a considerable proportion of whatever loss may be incident to the establishment, in the first instance, to fall, as it ought to do, upon the Government, and will, probably, tend to distribute the remainder of it, more equally, among the community.

It may, nevertheless, be advisable, in addition to the precautions here suggested, to repose a discretionary authority in the President of the United States, to continue the currency of the Spanish dollar, at a value correspond-

would be to abandon the advantage of preserving the identity of the dollar, or, to speak more accurately, of having the proposed one received and considered, as a mere substitute for the present.

The end may, however, be obtained, without either of those inconveniences, by increasing the proportion of alloy in the silver coins. But this would destroy the uniformity, in that respect, between the gold and silver coins. It remains, therefore, to elect which of the two systematic ideas shall be pursued or relinquished; and it may be remarked, that it will be more easy to convert the present silver coins into the proposed ones, if these last have the same, or nearly the same proportion of alloy, than if they have less.

The organization of the mint yet remains to be considered.

This relates to the persons to be employed, and to the services which they are respectively to perform. It is conceived that there ought to be:

A director of the mint, to have the general superintendence of the business.

An assay master, or assayer, to receive the metals brought to the mint, ascertain their fineness, and deliver them to be coined.

A master coiner, to conduct the making of the coins.

A cashier, to receive and pay them out.

An auditor, to keep and adjust the accounts of the mint.

Clerks, as many as the director of the mint shall deem necessary, to assist the different officers.

Workmen, as many as may be found requisite.

A porter.

In several of the European mints, there are various other officers, but the foregoing are those, only, who appear to be indispensable. Persons in the capacity of clerks, will suffice instead of the others, with the advantage of greater economy.

The number of workmen is left indefinite, because, at certain times, it is requisite to have more than at others. They will, however, never be numerous. The expense of the establishment in an ordinary year, will, probably, be from fifteen to twenty thousand dollars.

The remedy for errors in the weight and alloy of the coins, must necessarily form a part in the system of a mint; and the manner of applying it will require to be regulated. The following account is given of the practice in England, in this particular:

A certain number of pieces are taken promiscuously out of every fifteen pounds of gold coined at the mint, which are deposited, for safe keeping, in a strong box, called the *pix*. This box, from time to time, is opened in the presence of the lord chancellor, the officers of the treasury, and others, and portions are selected from the pieces of each coinage, which are melted together, and the mass assayed by a jury of the company of goldsmiths. If the imperfection and deficiency, both in fineness and weight, fall short of a sixth of a carat, or 40 grains of pure gold, upon a pound of standard, the master of the mint is held excusable, because, it is supposed, that no workman can reasonably be answerable for greater exactness. The expediency of some similar regulation seems to be manifest.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

[THE FOLLOWING PAPERS WERE NOT COMMUNICATED BY MR. HAMILTON:]

PROPOSITIONS RESPECTING THE COINAGE OF GOLD, SILVER, AND COPPER.

FIRST. The value of silver compared with gold;

SECOND. The weight or size of the several pieces of money that are to be made;

THIRD. The money arithmetic, or the mode in which it is to be counted; and

FOURTH. The charges of coinage; are to be considered.

1. In France, one grain of pure gold is counted worth fifteen grains of silver; in Spain, sixteen grains of silver are exchanged for one of gold; and, in England, fifteen and one-fifth. In both of the kingdoms last mentioned, gold is the prevailing money, because silver is undervalued. In France, silver prevails. Sundry advantages would arise to us from a system by which silver might become the prevailing money. This would operate as a bounty, to draw it from our neighbors, by whom it is not sufficiently esteemed. Silver is not exported so easily as gold, and it is a more useful metal.

Certainly our exchange should not be more than fifteen grains of silver for one of gold. It has been alleged, by the late financier, that we should not give more than fourteen and a half. Perhaps fourteen and three-quarters would be a better medium, considering the quantity of gold that may be expected from Portugal.

2. The weight, size, or value, of the several pieces of money that shall be made, or rather the most convenient value of the money unit, is a question not easily determined, considering that most of the citizens of the United States are accustomed to count in pounds shillings and pence, and that those sums are of different values in the different States—hence they convey no distinct ideas. The money of the United States should be equally fitted to all. The late financier has proposed to make gold and silver pieces of particular weight, and there is a very simple process by which the imaginary money of the several States may be translated into such pieces, or *vice versa*. He proposes that the money unit be one-quarter of a grain of pure silver; that the smallest coin be of copper, which shall be worth five of those units; the smallest silver coin to be worth one hundred units; another to be worth five hundred; another of one thousand; and thus increasing decimally.

The objections to this plan are, that it introduces a coin unlike in value to any thing now in use; it departs from the national mode of keeping accounts, and tends to preserve inconvenient prejudices; whence it must prevent national uniformity in accounts, a thing greatly to be desired.

Another plan has been offered, which proposes that the money unit be one dollar, and the smallest coin is to be of copper, of which two hundred shall pass for one dollar. This plan also proposes that the several pieces shall increase in a decimal ratio, and that all accounts be kept in decimals, which is certainly by much the most short and simple mode.

In favor of this plan, it is urged, that a dollar, the proposed unit, has long been in general use—its value is familiar. This accords with the national mode of keeping accounts, and may, in time, produce the happy effect of uniformity in counting money throughout the Union.

3. The money arithmetic, though an important question, is one that can admit of little dispute. All accounts

quarter per cent. would be a proper difference between silver, coined, and bullion. The same difference to be made in the price of gold. If this does not fully pay the expenses of the mint, there will be a much larger gain on the coinage of copper; and, if there should remain a small balance against the mint, its operation will not be unfavorable.

The coinage of copper is a subject that claims our immediate attention. From the small value of the several pieces of copper coin, this medium of exchange has been too much neglected. The more valuable metals are daily giving place to base British half-pence, and no means are used to prevent the fraud. This disease, which is neglected in the beginning, because it appears trifling, may finally prove very destructive to commerce. It is admitted that copper may, at this instant, be purchased in America at one-eighth of a dollar the pound.

British half-pence, made at the tower, are forty-eight to the pound. Those manufactured at Birmingham, and shipped in thousands for our use, are much lighter, and they are of base metal. It can hardly be said that seventy-two of them are worth a pound of copper; hence it will follow, that we give for British half-pence about six times their value. There are no materials from which we can estimate the weight of half-pence, that have been imported from Britain since the late war; but we have heard of sundry shipments being ordered, to the nominal amount of one thousand guineas; and we are told that no packet arrives from England without some hundred weight of base half-pence. It is a very moderate computation which states our loss, on the last twelve months, at 30,000 dollars, by the commerce of vile coin. The whole expense of a mint would not have amounted to half of that sum, and the whole expense of domestic coinage would remain in the country.

The following forms of money are submitted:

1 piece of gold, of	5 dollars.	
1 piece of silver, of	1 dollar, containing 362 grains pure silver.	This is the unit, or money of account.
1 do. do.	$\frac{1}{2}$, or .5	
1 do. do.	$\frac{1}{4}$, or .25	
1 do. do.	$\frac{1}{10}$, or .1	
1 do. do.	$\frac{1}{20}$, or .05	
1 do. of copper, of	$\frac{1}{100}$, or .01	
1 do. do.	$\frac{1}{1000}$, or .005	

The quantity of pure silver being fixed that is to be in the unit or dollar, and the relation between silver and gold being fixed, all the other weights must follow.

When it is considered that the Spaniards have been reducing the weight of their dollars, and that, instead of 385.5, the grains of pure silver in the old Mexican dollar, the new dollars have not more than 365 grains, it will hardly be thought that 362 grains of pure silver is too little for the federal coin, which is to be current in all payments for one dollar. Some of the old dollars will admit of a second coinage, but the new ones will not. If the value of gold, compared to that of silver, be fixed at fifteen to one, and the alloy in each be one-twelfth, the weight of the several denominations will be readily determined.

The price of bullion is immediately determined by the per centage that is charged towards the expenses of the mint.

If the United States determine to adhere to the dollar as their money of account, and to simplify accounts by the use of decimals, there is nothing to prevent the immediate commencement of a coinage of copper.

Let the copper pieces, of which one hundred are to pass for a dollar, contain, each, one hundred and thirty-one grains of pure copper, or forty-four of them weigh one pound. In this case, our copper coin, when compared with the money of account, will be six per cent. better than that of Great Britain. There will remain a sufficient profit on the coinage.

Copper of the best quality, in plates, may be purchased in Europe at 10½d. sterling. In cutting blanks, there will be a waste of twenty-two per cent. Those clippings are worth 7½d. per pound; thence the blanks will cost 11½d. nearly—it may be stated at 1s. 9d. New York money, per pound, exclusive of the expense of cutting them, which is not great, as one man can readily cut one hundred weight in a day.

The operation, improperly called milling, by which the sharp edges are worn off from the coppers, is not more expensive than cutting the blanks.

In the process of coining copper, eight artists or laborers may be required: One engraver, one laborer, for the blank press; one smith, five laborers, for the coining press.

By these people, one hundred weight of copper may readily be coined every day, or the value of forty-four dollars. Deducting the necessary expenses, there may be saved thirty per cent.

OFFICE OF FINANCE, January 15, 1782.

SIR:

Finding, by the act of the United States, in Congress, of the seventh instant, that I am instructed to prepare and report a table of rates at which the different species of foreign coins, most likely to circulate within the United States, shall be received at the treasury, I have been induced again to turn my attention to an object which has employed my thoughts very frequently, and which would have been long since submitted to Congress, had I not been prevented by other business, and much delayed by those things relating to this business, which depended upon others.

I shall now pray leave to deliver my sentiments somewhat at large on this subject.

The United States labor under many inconveniences, and even disadvantages, which may at present be remedied; but which, if suffered to continue, would become incurable, and lead to pernicious consequences. It is very fortunate for us, that the weights and measures used throughout America, are the same. Experience has shewn in other countries, that the efforts of the legislator to change weights and measures, although fully seconded by the more enlightened part of the community, have been so strongly opposed by the popular habits and prejudices, that ages have elapsed without producing the desired effect. I repeat, therefore, that it is happy for us to have throughout the Union, the same ideas of a mile and an inch, a hoghead and a quart, a pound and an ounce. So far our commercial dealings are simplified, and brought down to the level of every capacity. With respect to our money, the case is very widely different. The ideas annexed to a pound, a shilling, and a penny, are almost as various as the States themselves. Calculations are, therefore, as necessary for our inland commerce, as upon foreign exchanges, and the commonest things become intricate where money has any thing to do with them. A farmer in New Hampshire, for instance, can readily form an idea of a bushel of wheat in South Carolina, weighing sixty pounds, and placed at one hundred miles from Charleston; but if he were told that, in such situation, it is worth twenty-one shillings and eight

pressive creditor, who refuses to receive the full value. The nature, value, and use of money, have always occasioned strong temptations to the commission of fraud; and, of consequence, the practice of counterfeiting is coeval with that of coining. No Government can guard its subjects entirely, against the wicked ingenuity which has been exercised in this respect; but it has always been the object of every wise Government to take all the precautions against it, which are within the compass of human ability. These precautions will be most effectual, where the coins are few and simple, because they, by that means, become familiar to all ranks and degrees of men; but where the coins are so numerous that the knowledge of them is a kind of science, the lower order of citizens are constantly injured by those who carry on the business of debasing, sweating, clipping, counterfeiting, and the like. It is, therefore, to be lamented that we have so many different coins in the United States. It is not necessary to mention what is in every body's mouth, that the precious metals were first used as bullion; and that the inconvenience of weighing, and the difficulty of assaying, introduced the practice of coining, in order that the weight and fineness might be known at the first view, and of consequence the value be instantly ascertained. It is equally unnecessary to observe, that the great privilege of declaring this value by particular marks, has, among all nations, been vested, exclusively, in the sovereign. A trust so important could not indeed be vested any where else, because, the danger of abusing it was too great. And history informs us, that sovereigns themselves have not, on this occasion, behaved with that integrity, which was alike due to their subjects and to themselves, to the interests of their People, and to their own personal glory. Experience has already told us that the advantage of gold as a coin is, in this country, very considerably diminished: for, every distinct piece must be weighed before it can be safely received. Both gold and silver coins are indeed preferable, in one respect, to common bullion—that the standard is presumed to be just, and consequently they are received without the delays and expenses of assaying. It must, however, be remembered, that they are all foreign coins, and of course we are not only exposed to the tricks of individuals, but, should it suit the interest or convenience of any sovereign to make base money for us, there is nothing to prevent it. If, for instance, the King of England, or any of his Birmingham artists, should coin guineas worth but sixteen shillings sterling, our citizens would readily and freely receive them at twenty-one shillings sterling. It is my duty to mention to Congress, information I have received, that guineas of base metal are coined at Birmingham, so well, as to escape any common attention. Now there can be no doubt but that every such guinea, received here, would be a national loss to us of an English crown. How much we suffer in this way at present, it is impossible to estimate. What I have already had the honor to observe, contains some of the reasons why it appears to me highly necessary that an American coin should be adopted without delay; and to these reasons it may be added, that there is a want of small money for the common occasions of trade, and that it is more felt by our soldiery than any other persons: for, the little pay which they do receive, being either in gold, or at best in dollars, the settlers and others with whom they have dealings, continually take advantage of their want of change, and rate the prices of their goods accordingly.

Shortly after my appointment, finding that there was a considerable quantity of public copper at Boston, I ordered it round to this place. It has safely arrived, and will, when coined, amount to a considerable sum. The necessary machinery of a mint can be easily made, and there are persons who can perform the whole business. I must pray leave, therefore, to submit to Congress, some few more particular remarks on the subject, as introductory to a plan for an American coin.

Although most nations have coined copper, yet that metal is so impure, that it has never been considered as constituting the money standard. This is affixed to the two precious metals, because they alone will admit of having their intrinsic value precisely ascertained. But nations differ very much in the relation they have established between gold and silver. In some European countries, one ounce of pure gold passes for fifteen ounces of pure silver; in others for fourteen. In China, it passes for much less. The standard, therefore, which is affixed to both metals, is, in reality, affixed to neither. In England, gold is to silver, nearly in the proportion of one to fifteen; and in France, nearly of one to fourteen. If a man carries fourteen ounces of gold from France to England, he receives two hundred and ten ounces of silver, which, in France, purchases fifteen ounces of gold; so that he gains on that exchange, one ounce of gold. In like manner, he who carries from England fourteen ounces of silver to France, receives one ounce of gold, which in England purchases fifteen ounces of silver, wherefore he gains on that exchange, one ounce of silver. If it be then supposed that the coins of these two countries were alike pure, it must follow, that, in a short time, all the gold coin of full weight would be in England, and all the silver coin of full weight, in France. But the light silver circulating in England and the light gold in France, the real standard of coin in each would be different from the legal, and seek a medium of fourteen and an half of silver for one of gold, although the legal standard might still be in the one place fifteen and in the other fourteen.

The demand which commerce might make for any one of the precious metals, in preference of the other, would vary this real standard, from time to time, and in every payment a man would get more or less of real value for his debt, according as he were paid in the coin of greater or lesser value, in relation to the real standard. If, for instance, the debt were contracted when the silver was, to gold, as one to fifteen, and paid when as one to fourteen; if the debt were paid in silver, he would gain one thirtieth; and if in gold, he would lose one thirtieth. In England, the money standard is rather affixed to gold than to silver, because all payments are made in the former, and in France, it is rather affixed to silver than to gold.

Arguments are unnecessary to shew that the scale by which every thing is to be measured, ought to be as fixed as the nature of things will permit of. Since, therefore, a money standard affixed to both the precious metals will not give this certain scale, it is better to make use of one only. Gold is more valuable than silver, and so far must have the preference; but it is from that very circumstance the more exposed to fraudulent practices. Its value rendering it more portable is an advantage, but it is an advantage which paper possesses, in a much greater degree, and of consequence the commercial nation of England has had recourse to paper for the purposes of its trade; although the mass of circulating coin is gold. It will be always in our power to carry a paper circulation to every proper extent.

There can be no doubt, therefore, that our money standard ought to be affixed to silver.

But silver is liable, like every thing else, to a change of value; if there is a demand for it to export, the value will rise; if the contrary, it will fall; and so far it cannot be considered as a fixed measure of value. Before this objection be considered, it will be proper to make a few reflections on another part of the present subject; but in this place I remark, that if the objection cannot be removed, we must not suffer it to preponderate, because it weighs alike against every other metal.

To coin money is a certain expense, and, of course, it is an expense which must be borne by the people. In England, the coin, when melted, will sell as bullion for just as much as its weight in other coin. The expense of coinage is paid by the crown, and, of course, it is raised by taxes from the people. In France, the coinage, instead of being expensive, yields a profit. The price given for metal at the mint, is about eight per cent. less than the same

would be as liable to exportation as the English. In that case it would be exported on one hand, while, on the other, no more would have been coined for a considerable period, because, to make the eight per cent. coinage, it is necessary that the mint price should be ninety-two. The coin, therefore, could not long be exported, if at all, but would soon resume its value. The price of bullion must float between ninety-two and a hundred, while the coin would preserve its fixed quality as money. Hence, then, it appears proper that the price of coining should be defrayed by the coinage; because, first, it is natural and proper that the price should be paid where the benefit is received, and that the citizen, in return for the advantage of being ascertained in the value of the medium of commerce by the sovereign, should pay for ascertaining it, just as that he should pay for the fashion of the plate he uses, or the construction of the cart he employs; secondly, it is right that money should acquire a value as money, distinct from that which it possesses as a commodity, in order that it should be a fixed rule whereby to measure the value of all other things: and thirdly, it is wise to prevent the exportation of the coin, which would involve an unnecessary national expense, and also prevent the imitation of it abroad, so as to create a national loss; for both which purposes, it is proper that the coinage should only defray the expense, without making any considerable profit. The laws usual in all countries, with respect to the money, will then fully operate the effect intended.

In order that a coin may be perfectly intelligible to the whole people, it must have some affinity to the former currency. This, therefore, will be requisite in the present case. The purposes of commerce require that the lowest divisible point of money, or what is more properly called the money unit, should be very small, because, by that means, the price can be brought, in the smallest things, to bear a proportion to the value. And, although it is not absolutely necessary, yet it is very desirable, that money should be increased in a decimal ratio, because, by that means, all calculations of interest, exchange, insurance, and the like, are rendered much more simple and accurate, and, of course, more within the power of the great mass of people. Wherever such things require much labor, time, and reflection, the greater number, who do not know, are made the dupes of the lesser number, who do.

The various coins which have circulated in America, have undergone different changes in their value, so that there is hardly any which can be considered as a general standard, unless it be Spanish dollars. These pass in Georgia at five shillings; in North Carolina and New York at eight shillings; in Virginia and the four Eastern States at six shillings; in all the other States, except South Carolina, at seven shillings and six pence; and in South Carolina at thirty-two shillings and six pence. The money unit of a new coin, to agree, without a fraction, with all these different values of a dollar, except the last, will be the fourteen hundred and fortieth part of a dollar, equal to the sixteen hundredth part of a crown; of these units, twenty-four will be a penny of Georgia; fifteen will be a penny of North Carolina or New York; twenty will be a penny of Virginia and the four Eastern States; sixteen will be a penny of all the other States, except South Carolina; and forty-eight will be thirteen pence of South Carolina.

It has been already observed, that, to have the money unit very small, is advantageous to commerce; but there is no necessity that this money unit be exactly represented in coin; it is sufficient that its value be precisely known.

On the present occasion, two copper coins will be proper—the one of eight units, and the other of five. These may be called an eight and a five: two of the former will make a penny, proclamation of Pennsylvania money; and three a penny Georgia money; of the latter, three will make a penny York money, and four a penny lawful, or Virginia money. The money unit will be equal to a quarter of a grain of fine silver in coined money; proceeding thence in a decimal ratio, one hundred would be the lowest silver coin, and might be called a cent. It would contain twenty-five grains of fine silver, to which may be added two grains of copper, and the whole would weigh one pennyweight, three grains. Five of these would make a quint, or five hundred units, weighing five pennyweight, fifteen grains; and ten would make a mark, or one thousand units, weighing eleven pennyweight, six grains.

If the mint price of fine silver be established at 22,237 units per pound, this, being coined, would be four times 5,760 grains, or 23,040 units; the difference is 803 units, and, therefore, the coinage is 803 on 23,040, or somewhat more than $3\frac{1}{4}\%$ per cent., which would be about the expense attending it.

A dollar contains, by the best assays which I have been able to get, about 373 grains of fine silver, and that, at the mint price, would be 1,440 units. In like manner, if crowns contain from 414 to 415 grains of fine silver, they would, at the mint price, be worth 1,600 units.

When such a coin shall have been established, the value of all others would be easily ascertained, because nothing more would be necessary than to have them assayed at the mint. The advantage of possessing legal money, in preference of any other, would induce people to carry foreign coin to the mint, until a sufficiency were struck for the circulating medium; the remainder of the foreign silver, together with the gold, should be left entirely to the operations of commerce, as bullion.

In the present moment, it is by no means of such consequence to establish the relative value of different coins, as to provide a standard of our own, by which, in future, to estimate them. If the value were now sought, they must all be estimated in dollars, because dollars are called for in the several requisitions of Congress. Without noticing the preference thus given to one foreign coin over another, it is sufficient to observe, that, if greater alloy should be introduced by the Spanish Government into their dollars, our interior regulations as to money would be overturned; and certainly we have no security that this will not happen. There is not any great inconvenience from leaving matters on their present footing until they can be remedied by the operations of a mint: for it is not to be supposed that all the money raised by taxes in a State is to be brought out of it. I expect that there will be very little occasion to transport money from place to place. It is much easier to negotiate, than to carry it; and if any species of money is generally received within a State at the same rate in which it is paid in taxes, there will be no difficulty in expending it at its value. Whenever money shall be struck by authority of the United States, then, indeed, it will be proper to receive in taxes no other coin.

If Congress are of opinion with me, that it will be proper to coin money, I will immediately obey their orders, and establish a mint; and I think I can say with safety, that no better moment could be chosen for the purpose than the present: neither will any thing have a greater tendency to restore public credit: for, although it is possible that the new money will at first be received with diffidence by some, yet, when it has been fairly assayed, it will gain full confidence from all, and the advantage of holding the only money which can pay debts or discharge taxes, will soon give it the preference over all, and, indeed, banish all other from circulation. Whereas, fixing a relation of value, now, on whatever principles attempted, might give offence to the power whose coin should in any instance be reduced from its present numery value among us.

These sentiments are submitted with all possible deference to the United States in Congress assembled, in expectation of their further instructions on the subject.

With great respect, I have the honor to be, sir, your most obedient and humble servant,

This currency may, by means of a small profit taken to defray the expense of coining, be so adjusted, as to be in the proportions above mentioned;

And then the penny of Georgia will be, - - - - - 24 qrs.
 of Virginia and the four Eastern States, - - - - - 20
 of Maryland, Delaware, Pennsylvania, and New Jersey, - - - - - 16
 of North Carolina and New York, - - - - - 15

To accomplish this matter, let the crown be made of gold, 22 carats fine, and weigh 188 grains.

Let the dollar be made of silver, and contain 250 grains pure, and 10 of alloy, 260 grains.

Let the mint give for every pound of standard gold, brought in for sale, - - - - - 29.9000
 for every pound of pure silver, - - - - - 2.2340

On this state of things let it be asked, 1st, what is the coinage or profit on coining? and 2dly. what is the proportion resulting from thence between the precious metals? To answer the first, say, as 188 grains of standard gold, the proposed weight of a crown, is to 1.0000 the proposed value; so is 5,760 grains, the quantity in a pound, to 30.6383, the value when coined. And as 29.9000, the mint price, is to 30.6383; so is 100 to 102.47, nearly. The coinage of gold, therefore, will be $2\frac{47}{100}$ per cent.

Say again, as 2.2340, the mint price of five silver, is to 2.8040, the value of 5.760 grains, at 4 quarters each; so is 100 to 103.13, nearly. The coinage of silver, therefore, will be about $3\frac{13}{100}$ per cent. These per centages will about defray the expenses of the mint. And note here, that, since the expense must be paid, no tax for the purpose can be more equitable than one which is raised on the money itself.

To answer the second question, since a pound of gold, at 22 carats, contains 5.280 grains of pure metal, and this is worth, as above, 30.6383 quarters of a grain of fine silver, say, as 21,120 quarters of fine gold is to 30.6383 quarters of fine silver; so is one of fine gold to $14\frac{11}{16}$ of fine silver, being somewhat more than $14\frac{1}{2}$ of silver for 1 of gold.

It remains next to see, what are the values of this money; but a previous observation must be made, viz. That, by the currency of clipped gold, the value of American money has been considerably depreciated. Thus, the par between sterling and Pennsylvania currency was 166 $\frac{2}{3}$ currency for 100 sterling. But 3 dwt. of gold are current for 20s. A pound of gold is, therefore, equal to £80 currency; and two pounds, or 89 guineas, to £160. Therefore, £93 9 0 sterling, equals £160 Pennsylvania currency; and as £93 9 0 is to £160, so is £100 to £171 4 3 $\frac{1}{2}$, the present par, instead of £166 13 4, the former par.

To return, then, to the value of the money proposed, a guinea ought to contain 129 $\frac{1}{2}$ grains; therefore, say, as 5,760 grains, or one pound of gold, is to 29.9000, the mint price, so is 129 $\frac{1}{2}$ to 6,722, which, divided by 16, to reduce it to Pennsylvania currency, gives 420d. or 35s. The French crown ought to contain 412 $\frac{1}{2}$ grains pure silver; therefore, say, as 5,760 grains is to 2.2340, the mint price, so is 412 $\frac{1}{2}$ grains to 1600, or 8s. 4d. Pennsylvania currency. Lastly, the dollar contains about 372 grains of fine silver; but there is much difference between the old and new dollars; say, then, as 5,760 is to 2.2340, so is 372 to 1442, or 7s. 6d. Pennsylvania currency. The value of the dollar, therefore, may be stated at 1,440; and this, dividend by the proportional numbers before mentioned, gives the different values thus:

Divided by 24, it gives the value in Georgia, - - - - - 60 pence.
 " by 20, that of Virginia, and the four Eastern States, - - - - - 72
 " by 16, that of Pennsylvania, Maryland, Delaware, and New Jersey, - - - - - 90
 " by 15, that of North Carolina and New York, - - - - - 96

And the same thing will appear from a similar operation upon the value of a guinea or French crown, as above specified. Hence results a corollary of some importance towards simplifying the complex subject of money, viz: That, in the proposed currency, a quarter of a grain of pure silver (the smallest fractional part) would serve as a common expression or denominator to all the different currencies now in use; and any sum on a merchant's books might be reduced to that expression with ease and exactness. Suppose, for instance,

£151 13 4. C. qrs.

This sum, in Georgia, would be expressed by - - - - - 87 36
 " in Virginia, and the four Eastern States, - - - - - 72 08
 " in Maryland, Pennsylvania, Delaware, and New Jersey, - - - - - 58 24
 " in North Carolina and New York, - - - - - 54 06

So far, we have rather had in contemplation the money of account.

Let us now proceed to the coins. These may be as follows:

					C.	Penn. currency.	Virginia currency.		
Of gold,	1	weighing	188	qrs.	expression	1.0000	value	£ 2 12 1	£ 2 1 8
"	1	"	94	"	"	.5000	"	1 6 0 $\frac{1}{2}$	1 0 10
of silver,	1	"	260	"	"	.1000	"	0 5 2 $\frac{1}{2}$	0 4 2
"	1	"	104	"	"	.400	"	0 2 1	0 1 8
"	1	"	52	"	"	.200	"	0 1 0 $\frac{1}{2}$	0 0 10
"	1	"	26	"	"	.100	"	0 0 6 $\frac{1}{2}$	0 0 5
of copper,	1	"	00	"	"	.5	"	0 0 0	0 0 0 $\frac{1}{2}$
"	1	"	00	"	"	.4	"	0 0 0 $\frac{1}{2}$	0 0 0

Hence it appears, that these coins would agree with the currency of nine States out of the thirteen, with like precision as the money of account, represented, would agree with them all.

Let us next examine the state of exchanges which would result from the adoption of such a plan. And here we should confine our view to those three countries with whom we have exchange dealings, viz: England, France, and Holland; as to Spain and Portugal, we barter our produce for theirs, among the articles of which are silver and gold. It has already been noted, that two pounds of standard gold are 89 guineas, or 1,869 shillings; and that one pound of the coined gold is 30.6383; consequently, two pounds are 61.2766; therefore, say, as 1,869 is to 61.2766, so is 20 to 6,556, the value of a pound sterling.

It has also been mentioned, that the French crown, or 6 livres, contains 412 $\frac{1}{2}$ grains of pure silver; that is, 1,650 qrs.; therefore, say, as 6 is to 1,650, so is 1 to 276, the value of a livre. The exchanges with Holland are taken upon the bank florin, which is merely a money of account, and the current money varies from it at the rate of from two to five per cent. advance. The bank guilder, or florin, must, therefore, be taken at a medium value, and will be found worth 600. On these values, we shall find the following par exchanges, among those countries, viz:

£ 1 sterling, or 6,556, equal to about F. st. g. 10 10 8, and about Liv. s. p. 23 16 10

Lastly, as to the names above chosen, they, like all other names, are arbitrary, and better may, perhaps, be substituted; the word crown occurred from the following idea of an impression for the gold coin: an Indian, his right foot on a crown, a bow in his left hand, in his right hand thirteen arrows, and the inscription—*Manus inimica Tyrannis*.

Notes on the establishment of a Money Mint, and of a coinage for the United States.—By Mr. Jefferson.

In fixing the unit of money, these circumstances are of principal importance: 1. That it be of convenient size to be applied as a measure to the common money transactions of life. 2. That its parts and multiples be in an easy proportion to each other, so as to facilitate the money arithmetic. 3. That the unit and its parts or divisions be so nearly of the value of some of the known coins, as that they may be of easy adoption by the people.

The Spanish dollar seems to fulfil all these conditions.

1. Taking into our view all money transactions, great and small, I question if a common measure of more convenient size than the dollar could be proposed. The value of 100, 1,000, 10,000 dollars, is well estimated by the mind; so is that of the tenth or the hundredth of a dollar. Few transactions are above or below these limits. The expediency of attending to the size of the money unit will be evident to any one who will consider how inconvenient it would be to a manufacturer, or merchant, if, instead of the yard for measuring cloth, either the inch or the mile had been made the unit of measure.

2. The most easy ratio of multiplication and division, is that by ten. Every one knows the facility of decimal arithmetic. Every one remembers that, when learning money arithmetic, he used to be puzzled with adding the farthings, taking out the fours and carrying them on; adding the pence, taking out the twelves and carrying them on; adding the shillings, taking out the twentieths and carrying them on; but when he came to the pounds, where he had only tens to carry forward, it was easy, and free from error. The bulk of mankind are school-boys through life. These little perplexities are always great to them, and even mathematical heads feel the relief of an easier substituted for a more difficult process. Foreigners, too, who trade or travel among us, will find a great facility in understanding our coins and accounts from this ratio of sub-division. Those who have had occasion to convert the livres, sols, and deniers of the French, the gilders, stivers, and pennings of the Dutch, the pounds, shillings, pence, and farthings, of these several States, into each other, can judge how much they would have been aided had their several sub-divisions been in a decimal ratio. Certainly, in all cases where we are free to choose between easy and difficult modes of operation, it is most rational to choose the easy. The financier, therefore, in his report, well proposes that our coins should be in decimal proportions to one another. If we adopt the dollar for our unit, we should strike four coins, one of gold, two of silver, and one of copper.

1. A golden piece, equal in value to ten dollars.

2. The unit, or dollar itself, of silver.

3. The tenth of a dollar, of silver also.

4. The hundredth of a dollar, of copper.

Compare the arithmetical operations on the same sum of money expressed in this form, and expressed in the pound sterling, and its divisions.

ADDITION.

£. s. d.	Dollars.
8 13 11½	38 65
4 12 8½	20 61
£13 6 8½	59 26

SUBTRACTION.

£. s. d.	Dollars.
8 13 11½	38 65
4 12 8½	20 61
£4 1 2½	18 4

MULTIPLICATION, BY 8.

£. s. d.	Dollars.
8 13 11½	38 65
20	8
173	309 2
12	
2087	
4	
8350	
8	
66 800	
16 700	
1 39(18	
£69 11 8	

DIVISION, BY 8.

£. s. d.	Dollars.
8 13 11½	38 65
20	4 83
173	
12	
2087	
4	
8350	
35	1043
30	260½
1	2)1.8
£11 18½	

A bare inspection of these operations will evince the labor which is occasioned by sub-dividing the unit into 20ths, 240ths, 964ths, as the English do, and as we have done; and the ease of sub-divisions in a decimal ratio. The same difference arises in making payment. An Englishman, to pay £8 13 11½ must find, by calculation, what combinations of the coins of his country will pay this sum; but an American, having the same sum to pay, thus expressed, \$38 65, will know, by inspection only, that three golden pieces, eight units or dollars, six tenths, and five coppers, pay it precisely.

3. The third condition required is, that the unit, its multiples, and sub-divisions, coincide in value with some of the known coins so nearly, that the people may, by a quick reference in the mind, estimate their value; if this be not attended to, they will be very long in adopting the innovation, if ever they adopt it. Let us examine in this point of view each of the four coins proposed.

1. The golden piece will be more than a half ioe. and more than a double guinea. It will be readily estimated.

3. The tenth will be precisely the spanish bit, or half pistareen in some of the States, and in the others, will differ from it but by a very small fraction. This is a coin perfectly familiar to us all. When we shall make a new coin, equal in value to this, it will be of ready estimate with the people.

4. The hundreth, or copper, will be nearly the penny or copper of New York and North Carolina, this being $\frac{1}{100}$ of a dollar, and will not be very different from the penny or copper of New Jersey, Pennsylvania, Delaware, and Maryland, which is $\frac{1}{100}$ of a dollar; it will be about the medium between the old and the new coppers of these States, and, therefore, will soon be substituted for them both. In Virginia, coppers have never been in use. It will be as easy, therefore, to introduce them there, of one value as of another. The copper coin proposed, will be nearly equal to three-fourths of their penny, which is the same with the penny lawful of the Eastern States.

A great deal of small change is useful in a State, and tends to reduce the prices of small articles. Perhaps, it would not be amiss to coin two more pieces of silver, one of the value of two-tenths, which would be equal to the Spanish pistareen, and one of the value of five coppers, which would be equal to the Spanish half bit. We should then have four silver coins, viz:

1. The unit, or dollar.
2. The double tenth, equal to 2 or 1-5th of a dollar or to the pistareen.
3. The tenth, equal to a Spanish bit.
4. The five copper piece, equal to .05 or 1-20th of a dollar, or to the half bit.

The plan reported by the financier, is worthy of his sound judgment. It admits, however, of objection in the size of the unit. He proposes, that this shall be the 1440th part of a dollar, so that it will require 1440 of his units, to make the one proposed. He was led to adopt this, by a mathematical attention to our old currencies, all of which, this unit will measure, without leaving a fraction; but, as our object is to get rid of these currencies, the advantage derived from this coincidence, will soon be past; whereas, the inconveniences of this unit, will forever remain, if they do not altogether prevent its introduction. It is defective in two or three requisites of a money unit.

1. It is inconvenient in its application to the ordinary money transactions; 10,000 dollars will require 8 figures to express them, viz: 14,400,000. A horse or bullock, of 80 dollars value, will require a notation of 6 figures, viz: 115,200 units. As a money of account this will be laborious, even when facilitated by the aid of decimal arithmetic; as a common measure of the value of property, it will be too minute to be comprehended by the people. The French are subjected to very laborious calculations, the livre being their ordinary money of account, and this but between a 5th and 6th of a dollar. But what will be our labor, should our money of account be 1-1440th of a dollar?

2. It is neither equal nor near to any of the known coins in value. If we determine that a dollar shall be our unit, we must then say with precision, what a dollar is. This coin, as struck at different times, of different weights and fineness, is of different values. Sir Isaac Newton's assay and representation to the lords of the treasury, in 1717, of those which he examined, made their value as follows, viz:

	Dwts.	Grs.	Grains.	
The Seville piece of eight, - - - - -	17	12	387	of pure silver.
The Mexico do. - - - - -	17	10 5-9ths,	385 $\frac{1}{2}$	
The Pillar do. - - - - -	19	9	385 $\frac{3}{4}$	
The New Seville do. - - - - -	14		308 $\frac{7}{8}$	

The financier states the old dollars as containing 376 grains of fine silver, and the new 365 grains. If the dollars circulating among us, be of every date equal, we should examine the quantity of pure metal in each, and from them, form an average for our unit. This is a work proper to be committed to the mathematicians as well as merchants, and which should be decided on actual and accurate experiments.

The quantum of alloy is also to be decided. Some is necessary to prevent the coin from wearing too fast. Too much fills our pockets with copper instead of silver. The silver coins, assayed by Sir Isaac Newton, varied from 1 $\frac{1}{2}$ to 76 penny weight alloy, in the pound troy of mixed metal. The British standard has 18 dwt. The Spanish coins assayed by Sir Isaac Newton, have from 18 to 19 $\frac{1}{2}$ dwt. The new French crown has in fact 19 $\frac{1}{2}$, though by edict it should have 20 dwt., that is $\frac{1}{12}$.

The taste of our countrymen will require that their furniture plate should be as good as the British standard. Taste cannot be controlled by law. Let it, then, give the law in a point which is indifferent to a certain degree. Let the Legislatures fix the alloy of furniture plate at 18 dwt., the British standard, and Congress, that of their coin at one ounce in the pound, the French standard. This proportion has been found convenient for the alloy of gold coin, and it will simplify the system of our mint, to alloy both metals in the same degree. The coin, too, being the least pure, will be easily melted into plate. These reasons are light indeed, and, of course, will only weigh if no heavier ones can be opposed to them.

The proportion between the value of gold and silver, is a mercantile problem altogether. It would be inaccurate to fix it by the popular exchanges of a half joe for 8 dollars, a louis for 4 French crowns, or 5 louis for 23 dollars. The first of these would be, to adopt the Spanish proportion between gold and silver; the second, the French; the third, a more popular barter, wherein convenience is consulted more than accuracy. The legal proportion in Spain, is 16 for 1, in England, 15 1-5th for 1, in France, 15 for 1. The Spaniards and English are found in experience to retain an over proportion of gold coins, and to lose their silver. The French have a greater proportion of silver. The difference at market, has been on the decrease. The financier states it at present, as at 14 $\frac{1}{2}$ for 1. Just principles will lead us to disregard legal proportions altogether; to inquire into the market price of gold in the several countries with which we shall principally be connected in commerce, and to take an average from them. Perhaps, we might, with safety, lean to a proportion somewhat above par for gold, considering our neighborhood and commerce with the sources of the coins, and the tendency which the high prices of gold, in Spain, has to draw thither all that of their mines, leaving silver principally for our, and other markets. It is not impossible, that 15 for 1 may be found an eligible proportion. I state it, however, as conjectural only.

As to the alloy for gold coins, the British is an ounce in the pound; the French, Spanish, and Portuguese, differ from that only from a quarter of a grain to a grain and a half. I should, therefore, prefer the British, merely because its fraction stands in a more simple form, and facilitates the calculations into which it enters.

Should the unit be fixed at 365 grains of pure silver, gold at 15 for one, and the alloy of both be 1-12th, the weights of the coins will be as follow:

The golden piece, containing 243 $\frac{1}{2}$ grains of pure metal, 22.12 grains alloy, will weigh 11 dwt. 1.45 grains.

	grs.	grs. alloy.	dwt.	grs.
The unit, or dollar, - - - - -	365	33.18	16	14.18
The 5th. or pistareen - - - - -	73	6.63	3	7.63

To appoint proper persons to assay and examine, with the utmost accuracy practicable, the Spanish milled dollars of different dates, in circulation with us.

To assay and examine, in like manner, the fineness of all the other coins which may be found in circulation within these States.

To report to the committee the result of these assays, by them to be laid before Congress.

To appoint also proper persons to inquire what are the proportions between the values of fine gold and fine silver, at the markets of the several countries with which we are, or may probably be, connected in commerce; and what would be a proper proportion here, having regard to the average of their values at those markets, and to other circumstances, and report the same to the committee, by them to be laid before Congress.

To prepare an ordinance for establishing the unit of money within these States, for subdividing it, and for striking coins of gold, silver, and copper, on the following principles:

That the money unit of these States shall be equal in value to a Spanish milled dollar, containing so much fine silver as the assay, before directed, shall show to be contained, on an average in dollars of the several dates in circulation with us;

That this unit shall be divided into 10ths and 100ths;

That there shall be a coin of silver, of the value of an unit; one other of the value of 1-10th of an unit; one other of copper, of the value of the 100th of an unit;

That there shall be a coin of gold, of the value of 10 units, according to the report before directed, and the judgment of the committee thereon;

That the alloy of the said coins, of gold and silver, shall be equal in weight to 1-11th part of the fine metal;

That there be proper devices for these coins;

That measures be proposed for preventing their diminution, and also their currency, and that of any others, when diminished;

That the several foreign coins be described and classed in the said ordinance, the fineness of each class stated, and its value by weight estimated in units, and decimal parts of units, and that said draught of an ordinance be reported to Congress at their next meeting, for their consideration and determination.

1st CONGRESS.]

No. 25.

[3d Session.

TRADE WITH INDIA AND CHINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 10, 1791.

The Secretary of the Treasury, in obedience to the order of the House of Representatives of the twentieth day of January last, referring to him the petition of the merchants of Philadelphia, trading to India and China, respectfully reports:

That the subject of said petition involves the consideration of the general policy which ought to be pursued by the United States in relation to the trade with India and China, concerning which, questions of equal delicacy and importance arise, requiring a more careful and deliberate investigation than can be performed, consistently with the view of the House of Representatives, respecting the termination of their present session.

That, under this impression, the Secretary, if permitted by the House, will defer a report on the said subject, generally, till the next session of Congress, and will confine himself, for the present, to a particular article of the said trade, namely: Teas.

That it appears, upon inquiry, that considerable quantities of Bohea tea have been brought into the United States, from Europe, notwithstanding the additional duties laid upon that article, when so imported, by the laws heretofore passed; which have contributed both to overstock the market and to reduce the price below the standard at which it can be afforded by the merchants trading to China; producing, consequently, a material discouragement to the trade with that country, in which the article of Bohea tea is one of principal importance.

As an additional and extensive field for the enterprise of our merchants and mariners, and as an additional outlet for the commodities of the country, the trade to India and China appears to lay claim to the patronage of the Government, and its proceedings, hitherto, have countenanced the expediency of granting that patronage; in pursuance of which principle, the fact, which has been stated, would seem to render it advisable, for the present, that a further duty should be laid upon Bohea tea brought from Europe. Three cents per pound, it is conceived, would be an adequate increase.

But, to form a satisfactory judgment of the propriety either of pursuing or extending the system of granting particular favors to the trade in question, it is necessary that a full and accurate examination should be had into the nature and tendency of that trade, in order to ascertain the extent to which it may require or be entitled to encouragement.

All which is humbly submitted:

ALEXANDER HAMILTON,
Secretary of the Treasury.

TREASURY OFFICE, February 10, 1791.

The Secretary of the Treasury, in obedience to an order of the House of Representatives of the 26th ultimo, relative to the petition of Elias Hasket Derby, of the town of Salem, merchant, respectfully reports:

That he has duly considered the allegations contained in the said petition, and the prayer thereof.

1st Congress.]

No. 26.

[3d Session.

ENCOURAGEMENT TO AMERICAN SHIPS.

COMMUNICATED TO THE SENATE, FEBRUARY 16, 1791.

To the Honorable the Senate of the United States of America in Congress assembled, the petition of the subscribers, masters of American vessels in the port of Charleston, South Carolina, intended for the carrying trade to Europe, humbly sheweth:

That, allured by the encouragement afforded by Congress, in a former session, to the shipping of the United States of America, the owners of the vessels commanded by your petitioners were induced to engage their capitals in the carrying trade from the Southern States to Europe; in pursuance of this plan, they have greatly multiplied their shipping, by building new vessels; and others have been taken from the West India and other branches of trade, in which, for some years past, they have been engaged, with very indifferent success. The aggregate constitutes a prodigious navigation, of which, we are concerned to add, that the port of Charleston, at the present moment, affords a melancholy proof.

During the last season, a very considerable number of American vessels were loaded at this port; but their freights were, in general, the least acceptable, and at lower rates than were, at the same time, obtained by foreign vessels; this preference could not be attributed to any inferiority in the American shipping; but to some circumstances that are incomprehensible to your petitioners, but which they trust the wisdom of Congress will ascertain.

In the present instance, your petitioners find themselves in this port, with shipping nearly adequate to the transportation of the whole crop of this country; and they beg leave to observe, that, the season not yet being far advanced, many more vessels may reasonably be expected; and more than thirty are actually known to be coming; thus situated, the majority of your petitioners find themselves destitute of employment; the influx of foreigners having been as great or greater than ever; and, the usual partiality in their favor still existing, many of us foresee the necessity of returning to our respective ports of equipment, or employment; almost as unpromising as remaining in port; but, previous to dispersing, we conceive it a duty we owe to our country, as well as to ourselves, to represent our situation to the Supreme Legislature of the Union.

In the fullest confidence that our petition will be favorably received, and its object be thought to merit the consideration of Congress, we have subscribed our names, our respective vessels, and their tonnage, and, as in duty bound, shall ever pray.

Masters.	Vessels and Names.	Tons.	Where owned.
Thomas Thomas,	Ship Thomas,	230	Newburyport, Massachusetts.
Albert Smith,	Ship John,	295	Boston, Mass.
John Coffin Whitney,	Brig William,	152	Boston, Mass.
Samuel Calder,	Ship Olive Branch,	170	Gloucester, Mass.
Isaac Pepper,	Brig Hope,	135	Boston, Mass.
Joseph O'Brien,	Brig Mary,	206	Newburyport, Mass.
John Green,	Brig Essex,	197	Salem, Mass.
Amos Hixton,	Brig Peggy,	170	Salem, Mass.
John Lincoln,	Brig Katy,	140	Boston, Mass.
James Vesey,	Ship Peggy,	160	Salem, Mass.
Daniel Tucker,	Ship Sisters,	204	Portland, Maine.
Samuel Barnes,	Ship Mary,	244	Boston, Mass.
Josiah Edes,	Ship Lovina,	220	Boston, Mass.
Ozias Goodwin,	Ship Diana,	227	Boston, Mass.
Benjamin Lee,	Ship Fair American,	318	Boston, Mass.
Elisha Small,	Brigantine Martha,	182	Newburyport, Mass.
David Smith,	Ship Hunter,	235	Portland, Maine.
William Russell,	Ship William,	277	Newburyport, Mass.
Nat. Stone,	Ship Eliza,	189	Boston, Mass.
Robert Folger,	Ship Hudson,	235	Hudson, New York.
Richard Salter,	Ship Rainbow,	200	Portsmouth, N. H.
John Murphy,	Ship Nancy,	201	Salem, Mass.
John Baas,	Brig Fanny,	160	Charleston, S. Carolina.
Henry Stephens,	Ship Conception,	152	Philadelphia, Penn.
Timothy Coggeshall,	Brig St. Caroline,	125	Charleston, S. Carolina.
James Payne,	Ship Mary,	268	Charleston, S. Carolina.
Edward Allen,	Ship Bethia,	250	Charleston, S. Carolina.
James Cassel,	Brig Anger,	160	Boston, Mass.
J. Reed,	Ship Columbia,	220	Baltimore, Maryland.
Fielder Dorset,	Ship Patuxent Planter,	270	Nottingham, Maryland.
W. B. Smith,	Ship Friendship,	280	Baltimore, Maryland.
Samuel Foster,	Brig Union,	170	Beverly, Massachusetts.
William Hunter,	Ship Charleston,	180	Charleston, S. C.
Joseph Selman,	Brig Columbus,	129	Marblehead, Mass.

JAN. 7, 1791.]

Proceedings.

[SENATE.]

Congress, bearing date the 28th of July, 1790, praying to be received into the Federal Union, by the name of the State of Kentucky, it is declared that the people of the said District "are as warmly devoted to the American Union, and as firmly attached to the present happy establishment of the Federal Government as any of the citizens of the United States."

That from such information as the committee have been able to procure, the inhabitants resident in the said District are sufficiently numerous for all the purposes of an independent State.

That from these facts the committee have concluded that it would be proper for Congress to consent that the said District should become an independent State, and be admitted as a member of the United States of America, and that a bill should be prepared for that purpose.

And this report was accepted; whereupon, *Ordered*, That the committee which made the report be instructed to prepare a bill accordingly.

The Senate, on Executive business, received from the President the nomination of Abraham Ogden to be attorney for the United States in the district of New Jersey, in the place of Richard Stockton, resigned.

Ordered to lie on the table.

TUESDAY, January 4.

The bill to provide for the unloading of ships or vessels in case of obstructions by ice was read the second time, and ordered to pass to a third reading.

The committee to whom was referred that part of the speech of the President which relates to Kentucky, reported a bill which was read the first time, and ordered to pass to a second reading.

A letter was received from the Treasurer of the United States, with his accounts, which were ordered to lie on the table.

The Senate entered on Executive business, and confirmed the nomination made yesterday.

WEDNESDAY, January 5.

The Senate proceeded to the second reading of the bill, providing that the District of Kentucky should become an independent State, and be admitted as a member of the United States of America; and

Ordered, That the further consideration hereof be postponed, and that in the meantime the bill be printed for the consideration of Congress.

Mr. HAWKINS, from the committee appointed to take into consideration the bill to continue an act, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations," reported amendments.

On motion to postpone the consideration of the amendments, to take up the following resolution reported by the committee, to wit:

Resolved, That the President of the United States be requested to direct an inquiry as to the extent of

the obstructions in the river Savannah, and in that leading to the town of Providence in the State of Rhode Island and Providence Plantations; the progress that has been made in their removal, together with a state of facts relative to the objects for which the said acts were passed by the respective States previous to the adoption of the present Constitution of the United States, and by which a duty of tonnage is laid on ships and vessels navigating the said rivers.

It passed in the negative.

The Senate proceeded in the second reading of the bill, and agreed thereto, with the following amendments reported by the committee, to limit the operation thereof to the States of Georgia and Rhode Island, by inserting these words, line 5th, after the word force:

"So far as the same respects the States of Georgia and Rhode Island and Providence Plantations."

To limit the duration of the act to one year, by striking out in the same line "five;" and inserting "one;" and to make the word "years," in the same line, singular.

To insert in the title of the bill, after the word "Plantations."

"So far as the same respects the States of Georgia and Rhode Island and Providence Plantations."

Ordered, That this bill, as amended, pass to the third reading.

THURSDAY, January 6.

Mr. STRONG, from the committee appointed to take into consideration the message of the President of the United States, of the 23d December last, respecting cases for grants of lands in the Western Territory northwest of the Ohio, reported that a bill be brought in for the purposes mentioned in the report; whereupon,

Ordered, That the same committee be instructed to prepare and report a bill accordingly.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill to continue an act, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations;" and,

Resolved, That this bill do pass with the amendments.

The bill to incorporate the subscribers to the Bank of ——— was read the second time, and the consideration thereof was postponed to Monday next.

Mr. LANGDON, from the committee to whom was referred that part of the President's speech which relates to the trade of the Mediterranean, together with the President's message of the 30th of December, and the papers accompanying the same, made report.

Ordered, That the consideration of the report be postponed until to-morrow.

FRIDAY, January 7.

Agreeably to the order of the day, the Senate proceeded to the consideration of the Report of the committee to whom was referred that part of the speech of the President of the United States which relates to the trade of the Medi-

SENATE.]

Proceedings.

[JAN. 14, 1791.]

terranean; together with the President's message of the 30th of December, and the papers accompanying the same; and,

Ordered, That the report lie on the table.

Mr. STRONG, from the committee to whom was referred the message of the President of the United States, of the 23d of December ult. reported "a bill for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the Territory Northwest of the Ohio, and for confirming them in their possessions;" which bill was read the first time.

Ordered, That this bill pass to the second reading.

A message from the House of Representatives informed the Senate, that they have concurred in the amendments of the Senate to the bill to continue an act, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations."

Mr. ELLSWORTH, from the committee appointed to take into consideration that part of the speech of the President of the United States which relates to the appointment of Consuls in foreign countries, reported a bill; which was read the first time.

Ordered, That this bill pass to the second reading.

The Senate proceeded in the second reading of the bill, providing "that the District of Kentucky should become an independent State, and be admitted as a member of the United States of America;" and, after progress, the further consideration of the bill was postponed until Tuesday next.

MONDAY, January 10.

JOHN HENRY, from Maryland, attended.

The Senate proceeded in the second reading of the bill to incorporate the subscribers to the Bank of —; and, after progress, the further consideration thereof was postponed.

Agreeably to the order of the day, the Senate proceeded to the second reading of the bill for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the Territory Northwest of the Ohio, and for confirming them in their possessions; and,

Ordered, That this bill pass to the third reading.

TUESDAY, January 11.

Agreeably to the order of the day, the Senate proceeded to the third reading of the bill for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the Territory Northwest of the Ohio, and for confirming them in their possessions; and,

proceeded in the second reading of the bill to incorporate the subscribers to the Bank of —; and, on motion, it was agreed to postpone the further consideration thereof until to-morrow.

The Senate proceeded to the third reading of the bill providing that the District of Kentucky should become an independent State, and be admitted as a member of the United States of America; and,

Resolved, That this bill do pass; that the title thereof be, "An act declaring the consent of Congress that a new State be formed within the jurisdiction of the Commonwealth of Virginia, and admitted into the Union, by the name of the State of Kentucky;" that the bill be engrossed, and that the Secretary carry it to the House of Representatives, and desire their concurrence.

The Senate proceeded in the second reading of the bill concerning Consuls and Vice Consuls; and, after progress,

Ordered, That it be recommitted to Messrs. ELLSWORTH, MORRIS, SCHUYLER, HAWKINS, and KING.

THURSDAY, January 13.

Several resolutions, and the memorial of the Commonwealth of Virginia, calling the attention of Congress to an act making provision for the debt of the United States, were, by Mr. MONROE, communicated to the Senate; which, being read,

Ordered, That they lie on the table.

The Senate proceeded to the second reading of the bill to incorporate the subscribers to the Bank of —; and agreed to fill the title with these words: "The United States of America."

On motion to limit the term of incorporation to seven years;

A motion was made to extend the term of incorporation to March the 4th, 1815: and on this the yeas and nays being required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Bassett, Dickinson, Ellsworth, Elmer, Johnson, King, Langdon, Morris, Read, Schuyler, and Strong.—11.

NAYS.—Messrs. Butler, Few, Foster, Hawkins, Henry, Johnston, Izard, Maclay, Monroe, and Wingate.—10.

So it passed in the affirmative.

A motion was made to subjoin to the last clause agreed to, as follows:

"Provided, nevertheless, That nothing herein contained shall be construed to exclude the right of amending the same, on giving twelve months' notice, from and after the first day of January, 1800;"

And, after debate, the further consideration

JAN. 19, 1791.]

Proceedings.

[SENATE.]

"*Provided, nevertheless, That nothing herein contained shall be construed to exclude the right of amending the same, on giving twelve months' notice, from and after the first day of January, 1800.*"

It passed in the negative.

On motion, it was agreed to reconsider the term of incorporation agreed to yesterday, and limit it to the fourth day of March, 1811; and, having made further progress in the bill,

The Senate adjourned.

MONDAY, January 17.

JAMES GUNN, from Georgia, attended.

The Senate proceeded in the second reading of the bill to incorporate the subscribers to the Bank of —; and, after progress, the further consideration thereof was postponed.

The following message from the President of the United States was received:

*Gentlemen of the Senate,
and House of Representatives:*

I lay before you an official statement of the appropriation of ten thousand dollars, granted to defray the contingent expenses of Government, by an act of the 26th of March, 1790.

A copy of two resolutions of the Legislature of Virginia, and a petition of sundry officers and assignees of officers and soldiers of the Virginia line on Continental establishment, on the subject of bounty lands allotted to them on the Northwest side of the Ohio; and

A copy of an act of the Legislature of Maryland, to empower the Wardens of the port of Baltimore to levy and collect the duty therein mentioned.

GEO. WASHINGTON.

UNITED STATES, January 17th, 1791.

Ordered, That the message lie for consideration.

The Senate, on Executive business, received the following communication from the President of the United States:

UNITED STATES, January 17th, 1791.

Gentlemen of the Senate:

I lay before you a letter from his Most Christian Majesty, addressed to the President and members of Congress of the United States of America.

GEO. WASHINGTON.

The letter referred to in the message is as follows:

To our very dear friends and allies, the President and members of the General Congress of the United States of North America.

VERY DEAR GREAT FRIENDS AND ALLIES:

We have received the letter by which you inform us of the new mark of confidence that you have

ted States in general, and for each of them in particular; under their influence, we pray God that he will keep you, very dear friends and allies, under his holy and beneficent protection.

Done at Paris, this 11th September, 1790.

Your good friend and ally,

LOUIS,

MONTMORIN, [SEAL.]

The UNITED STATES OF NORTH AMERICA.

Ordered, That the Secretary return this letter to the President of the United States.

TUESDAY, January 18.

A letter was read from the Secretary of State, enclosing a Postscript to the Report of measures, weights, and coins, now before the Senate; and,

Ordered, That the letter and enclosure lie for consideration.

The papers referred to in the message of the President of the United States, of the 17th instant; were read, and,

Ordered, To lie for consideration.

The Senate proceeded in the second reading of the bill to incorporate the subscribers to the Bank of —; and ordered that it be recommitted for further amendments.

Mr. STRONG, from the committee to whom was referred the last mentioned bill, reported sundry amendments; which, being agreed to,

The Senate proceeded in the second reading of the bill, and, having amended the same, the further consideration hereof was postponed.

WEDNESDAY, January 19.

A resolution of the Directors of the Library of Philadelphia was then communicated to the Senate, and read, providing that the President, and members of the Senate and House of Representatives of the United States, shall have free use of the books in the Library, in as full and ample manner as if they were members of the company.

The memorial of the Surgeons and Surgeons' Mates in the Medical Department, during a very considerable part of the late war, praying allowance for depreciation, was, by Mr. MORRIS, communicated to the Senate; which, being read, was

Ordered, To lie on the table.

The Senate proceeded in the second reading of the bill to incorporate the subscribers to the Bank of —;

On motion to expunge the twelfth section, to wit:

"*And be it further enacted, That no other bank*

HISTORY
OF
THE PROCEEDINGS AND DEBATES
OF THE
HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
AT THE THIRD SESSION OF THE FIRST CONGRESS, HELD AT PHILADELPHIA,
DECEMBER 6, 1790.

On which day, being the day appointed by the adjournment of the two Houses for the meeting of the present session, the following members appeared and took their seats, to wit:

From New Hampshire—ABIEL FOSTER, NICHOLAS GILMAN, and SAMUEL LIVERMORE.

From Massachusetts—FISHER AMES, BENJAMIN GOODRUE, and GEORGE THATCHER.

From Connecticut—BENJAMIN HUNTINGTON, ROGER SHEEMAN, and JONATHAN STURGES.

From New York—EGBERT BENSON, WILLIAM FLOYD, JOHN LAWRENCE, and PETER SYLVESTER.

From New Jersey—ELIAS BOUDINOT, LAMBERT CADWALADER, and JAMES SCHUREMAN.

From Pennsylvania—GEORGE CLYMER, THOMAS FITZSIMONS, FREDERICK AUGUSTUS MUHLENBERG, PETER MUHLENBERG, and HENRY WYNKOOP.

From Maryland—JOSHUA SENEY.

From Virginia—JOHN BROWN, SAMUEL GRIFFIN, and JAMES MADISON, JUNIOR.

From North Carolina—TIMOTHY BLOODWORTH, and HUGH WILLIAMSON.

From South Carolina—WILLIAM SMITH.

From Georgia—ABRAHAM BALDWIN.

Which not forming a quorum of the whole number, the House adjourned until to-morrow.

TUESDAY, December 7.

DANIEL HEISTER and THOMAS SCOTT, from Pennsylvania; RICHARD BLAND LEE, from Virginia; and DANIEL HUGER, from South Carolina, appeared and took their seats.

WILLIAM B. GILES, from Virginia, returned in the place of THEODORIC BLAND, deceased, also appeared, produced his credentials, and took his seat.

A quorum of members being now present, a message was received from the Senate, by Mr. OTIS, their Secretary, informing the House that a quorum of the Senate is assembled, and ready to proceed to business.

A message was returned to the Senate, informing them that a quorum of this House is assembled, and ready to proceed to business.

Messrs. BOUDINOT, LAWRENCE, and SMITH,

(of S. C.) were appointed a committee, to act with a committee from the Senate, to wait on the President of the United States, to inform him that a quorum of the two Houses is assembled.

A message from the Senate informed the House, that Messrs. LANGDON and MORRIS were appointed a committee, to join the committee of this House, to wait upon the President.

Mr. BOUDINOT, from the Joint Committee to wait on the President, reported that the President would attend to make a communication to both Houses to-morrow, at twelve o'clock, in the Senate Chamber.

WEDNESDAY, December 8.

ELBRIDGE GERRY and JONATHAN GROUT, from Massachusetts; ANDREW MOORE and ALEXANDER WHITE, from Virginia; and THOMAS TUDOR TUCKER, from South Carolina, appeared and took their seats.

A message from the Senate informed the House, that they are ready to meet the members of this House in the Senate Chamber, to receive the usual communication from the President of the United States.

Mr. SPEAKER, attended by the members of this House, then withdrew to the Senate Chamber, for the purpose expressed in the above message.

And being returned, the SPEAKER laid before the House a copy of the Speech, delivered by the President, (which will be found in the Proceedings of the Senate, page 1770.)

Which being read, it was, on motion, committed to the consideration of a Committee of the whole House to-morrow.

On motion,

Resolved, That two Chaplains, of different denominations, be appointed to Congress, one by each House, who shall interchange weekly.

Ordered, That a committee be appointed to prepare and bring in a bill for establishing the Post-office and post roads of the United States,

H. OF R.]

Bank of the United States.

[FEB. 1, 1791.]

He wished matters could be so arranged as to give Augusta, in Georgia, the advantage of the public mail, by establishing a post-road to that place, but thought the post should go first to Savannah, and from thence to Augusta.

Mr. TUCKER's motion was disagreed to.

Mr. BLOODWORTH spoke in favor of Mr. STEELE's amendment. He said, he had no idea of stopping the communications with the seaports. He supposed that provision would be made for their accommodation; and, in this view, he conceived there was no impropriety in opening the communication in the most direct manner with the interior country. He urged the necessity of giving the people every advantage to acquire information.

Mr. SHERMAN wished a limitation to the power of establishing cross-roads; that such only should be established as should defray their own expenses.

Mr. BOURNE was against the amendment as it stood; it would tend to render a number of good post-roads almost useless. He hoped, as an amendment to the proposition before the House, that a sentence would be added to make it read thus: "That the most direct roads from Wiscasset, in the District of Maine, to Savannah, in Georgia, and those now used as post-roads, be established as such."

Mr. HARTLEY feared the House would not find time this session to enter into the minutiae of the establishment, and wished a temporary discretionary power given in the business to the President of the United States, and the Postmaster General, after having fixed that the main road should remain as heretofore established. However, he proposed that the power be not granted without a limitation. He thought no part of the revenue of the United States, other than that derived from the post-office, should by them be touched for the establishment of posts. He wished also this power granted for a limited time.

Mr. BALDWIN moved that the post-road should be extended from Savannah to Augusta, in the State of Georgia. He observed, that it was a duty which the Government owed to the parts of which it was composed, to provide at least some channel of communication to them; that hitherto the post had only crossed the river from Carolina; barely landed in the State of Georgia, and returned; that the seat of the Government in that State is one hundred and twenty miles from that place inland, and all communication with it for that distance depends entirely on contingency. The operation of this Government will prove, that the distant extremes of the Union, remote from the warm and vivifying influences of the Government, will have a sufficiently hard lot. And is it to be thought best that no way should be provided to communicate any information to them? That ignorance may be a soporific to prevent a sense of their situation? He was obliged to add, that great provision had long been made on one extreme of the Union, and none at all for the

other. Did the post only cross the river into the District of Maine, and return immediately, their situations would be somewhat similar; but the post-road there had been several years extended to Portland, which is sixty miles within the District; and in the year 1788, it was extended eighty miles further, to Pownalborough; not in order to go to the seat of Government, for it is not a State, and the return will show that it could not be for the sake of the revenue.

The present clause in the bill provides for continuing the post to the same place. He relied on the justice of the House, that his motion would prevail, and that the post-road would be extended to Augusta.

Some other alterations to Mr. STEELE's proposition were offered; all of which were negatived, as was the original motion.

TUESDAY, February 1.

The bill making appropriations for the support of Government for the year 1791 was read the second time, and ordered to be engrossed for a third reading.

BANK OF THE UNITED STATES.

The bill sent from the Senate, to incorporate the subscribers to the Bank of the United States, was read the third time; and the question being on the passage of the bill,

Mr. SMITH (of S. C.) observed, that the bill being taken up rather unexpectedly yesterday, gentlemen did not appear prepared to discuss the subject. It therefore was suffered to be read in Committee of the whole, and passed to the third reading, in his opinion, rather informally; as the members were thereby deprived of giving their sentiments in the usual manner on a bill of the greatest importance. He thought it susceptible of various amendments. [The SPEAKER having observed, that the bill, agreeably to the rules of the House, could not be amended without being recommitted,] Mr. S. moved, that the bill should be recommitted, for the purpose of making sundry alterations, and removing objections which he thought the bill liable to. He then enumerated several objections. Those who are to receive the subscriptions, he said, by the bill are not obliged to give any bonds for their fidelity. He thought the clause which excludes foreigners from voting by proxy exceptionable; and the time in which subscriptions are to be received, he thought too contracted.

Mr. JACKSON said, he was in favor of the motion for a recommitment; but not for the reasons offered by the gentleman from South Carolina. He was opposed to the principle of the bill altogether. He then adverted to the situation of the United States, and observed, that it was so different from that of Great Britain, at the time the Bank was established in that country, that no reason in favor of the institution can be deduced from thence. He adverted to the arguments arising from the facility which Banks afford of anticipating the public resour-

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Bank of the United States.

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ces in cases of emergency. This idea of anticipations he reprobated, as tending to involve the country in debt, and an endless labyrinth of perplexities. This plan of a National Bank, said he, is calculated to benefit a small part of the United States, the mercantile interest only; the farmers, the yeomanry, will derive no advantage from it; as the bank bills will not circulate to the extremities of the Union. He said, he had never seen a bank bill in the State of Georgia, nor will they ever benefit the farmers of that State, or of New Hampshire. He urged that there was no necessity for instituting a new Bank. There is one already established in this city, under the style of the Bank of North America. This proposed institution is an infringement of the charter of that Bank, which cannot be justified. He urged the unconstitutionality of the plan; called it a monopoly; such a one as contravenes the spirit of the Constitution; a monopoly of a very extraordinary nature; a monopoly of the public moneys for the benefit of the corporation to be created. He then read several passages from the *Federalist*, which he said were directly contrary to the assumption of the power proposed by the bill. He hoped, therefore, that it would be recommitted; and he could not help hoping also, that it would be deferred to the next session.

Mr. LAWRENCE observed, that the friends of the institution proposed had been unjustly charged with precipitating the bill; but, he said, it had been long in the hands of the members; they have had time to consider it; the usual forms have been observed in its progress thus far; and if those who are opposed to the bill did not see proper to come forward with their objections, it surely is their own fault, and the advocates of the bill are not justly chargeable with precipitancy. He then particularly replied to the objections offered by Mr. SMITH, of South Carolina; and after considering them, said, that those objections did not, in his opinion, constitute sufficient reason to induce a recommitment of the bill. He then noticed the constitutional objections of Mr. JACKSON, and said, the Government of the United States is vested by the Constitution with a power of borrowing money; and in pursuance of this idea, they have a right to create a capital, by which they may, with greater facility, carry the power of borrowing on any emergency into effect. Under the late Confederation, the Pennsylvania Bank, called the Bank of North America, was instituted. He presumed that it will not be controverted, that the present Government is vested with powers equal to those of the late Confederation. He said, that he had no doubt its operation would benefit, not only the centre, but the extremities also of the Union. The commercial, mechanical, and agricultural interests of the United States are so combined, that one cannot be benefited without benefiting the other. He concluded by observing, that he thought the Legislature of the United States could not better answer the purposes of their

appointment, than by passing this bill. He hoped, therefore, that it would not be recommitted, but that it would now pass.

Mr. LEE observed, that having been confined by sickness, he was precluded from attending the House yesterday; but sick as he was, had he supposed that there was a prospect of a bill of such magnitude and importance passing without a discussion of its principles, he certainly would have attended, and offered his objections to various parts of it, which he thought very exceptionable. He hoped, therefore, it would now be recommitted; that a bill which is so unequal and so partial may undergo a thorough discussion.

Mr. TUCKER was in favor of a recommitment. He acknowledged that those who had their objections to the bill were certainly blameable for not coming forward with them yesterday. He then stated sundry objections to the bill. The time allowed to receive the subscriptions, he said, is too short, and will benefit those only in the vicinity of the Bank. The clause which authorizes the loaning of one hundred thousand dollars to the Government, without express provision by law, he thought exceptionable, as the Executive will be able, by this means, to borrow at any time, without being authorized, to almost any amount, of the Bank. The loan of two millions of dollars by the United States to the Bank, he objected to; as diverting that sum from the particular object for which it was borrowed. There is no appropriation, said he, of the half-yearly dividend of profits accruing to the United States, which he observed, was a very essential defect. Mr. T. stated other objections, as reasons for a recommitment.

Mr. WILLIAMSON was in favor of the recommitment, to give those who say they have not had an opportunity of offering their objections time to do it; and if the motion be not agreed to, he should not give his vote for the bill. He then adverted to the objections deduced from the Constitution, and explained the clause respecting monopolies as referring altogether to commercial monopolies.

Mr. SHERMAN objected to the recommitment. He said, that though the bill could not be amended without its being recommitted, yet it was open to discussion and objection previous to taking a vote on its passage. He did not think the objections offered afforded sufficient reasons for a recommitment. He replied to the observations offered by several gentlemen who had spoken in favor of the motion.

Mr. GERRY expressed his surprise at the observations of gentlemen who had neglected to offer their objections to the bill before, and said it could only be imputed to their own neglect, and not to any precipitancy on the part of the friends of the bill. Mr. G. noticed the several objections which had been offered, and said, if nothing more important could be offered, he thought it would be unjustifiable in the House to go into a committee.

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[FEB. 2, 1791.]

Mr. MADISON observed, that at this moment it was not of importance to determine how it has happened that the objections which several gentlemen now say they have to offer against the bill were not made at the proper time. It is sufficient for them, if the candor of the House should lead them now to recommit the bill, that in a Committee of the whole they may have an opportunity to offer their objections.

Mr. AMES replied to Mr. MADISON. He said, he did not conceive that the appeal now made to the candor of the House was in point. The gentlemen who object to the bill had an opportunity to offer their objections; the customary forms have been attended to; and the whole question for the recommitment turns on the force of the objections which are now offered to the general principles of the bill altogether. The candor of the House, he conceived, was entirely out of the question, and therefore not to be appealed to; but the justice due to their constituents in the proper discharge of the duty reposed in them. He said, it appeared to him absurd to go into a Committee of the whole to determine whether the bill is constitutional or not. If it is unconstitutional, that amounts to a rejection of it altogether.

Mr. MADISON thought there was the greatest propriety in discussing a constitutional question in the Committee of the whole.

Mr. STONE and Mr. GILES were in favor of the recommitment. They objected to the unconstitutionality of the bill, and to several of its particular clauses.

Mr. VINING said, he thought it was a subject of congratulation, that the bill was in its present situation; it had happily passed to the third reading without that tedious discussion which bills usually receive. The subject has been a considerable time before the House, and gentlemen have had time to contemplate it. The bill is now in the stage to which gentlemen very usually reserve themselves to state their objections at large, and he hoped they would now do it. He was not perfectly satisfied as to the constitutional point. He therefore hoped gentlemen would state their objections, that those who are satisfied on that point may offer their reasons.

Mr. BOUDINOT stated the process of the business yesterday. He observed, that he had then the honor to be in the chair. He had read the bill very distinctly and deliberately, with proper pauses; he thought that the fullest opportunity had been offered for gentlemen to come forward with their objections. He was opposed to the recommitment, as it would, he feared, issue in a defeat of the bill this session. He had one difficulty, however, respecting the unconstitutionality of the bill, which he hoped to have removed; and he hoped that a full discussion of its general principles would take place.

The motion for a recommitment was lost, as follows:

AYES.—Messrs. Ashe, Baldwin, Bloodworth, Bourne, Brown, Burke, Carroll, Contee, Gale,

Grout, Giles, Jackson, Lee, Madison, Matthews, Moore, Parker, Smith, of Maryland, Smith, of S. C., Stone, Tucker, White, and Williamson.—23.

NAYS.—Messrs. Ames, Benson, Boudinot, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Rensselaer, Schureman, Scott, Seney, Sherman, Sylvester, Sinnickson, Steele, Sturges, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—34.

INDIAN AFFAIRS.

Mr. AMES, from the Committee on Indian Affairs, informed the Speaker that a Report was ready to lay before the House; on which the doors of the gallery were ordered to be shut.

WEDNESDAY, February 2.

The engrossed bill making appropriations for the support of Government for the year 1791, was read the third time, and passed.

A message from the Senate informed the House, that they have passed the bill declaring the assent of Congress to a certain act of the State of Maryland.

BANK OF THE UNITED STATES.

The House resumed the consideration of the bill sent from the Senate to incorporate the subscribers to the Bank of the United States.

The bill being on its passage,

Mr. MADISON began with a general review of the advantages and disadvantages of Banks. The former, he stated, to consist in, first, the aid they afford to merchants, who can thereby push their mercantile operations further with the same capital. Second. The aids to merchants in paying punctually the customs. 3d. Aids to the Government in complying punctually with its engagements, when deficiencies or delays happen in the revenue. 4th. In diminishing usury. 5th. In saving the wear of gold and silver kept in the vaults, and represented by notes. 6th. In facilitating occasional remittances from different places where notes happen to circulate.

The effect of the proposed Bank, in raising the value of stock, he thought had been greatly overrated. It would no doubt raise that of the stock subscribed into the Bank; but could have little effect on stock in general, as the interest on it would remain the same, and the quantity taken out of the market would be replaced by Bank stock.

The principal disadvantages consisted in, 1st, banishing the precious metals, by substituting another medium to perform their office. This effect was inevitable. It was admitted by the most enlightened patrons of Banks, particularly by *Smith on the Wealth of Nations*. The common answer to the objection was, that the money banished was only an exchange for something equally valuable that would be imported in return. He admitted the weight of this observation in general; but doubted whether, in the present habits of this country, the

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returns would not be in articles of no permanent use to it. 2d. Exposing the public and individuals to all the evils of a run on the Bank, which would be particularly calamitous in so great a country as this, and might happen from various causes, as false rumors, bad management of the institution, an unfavorable balance of trade from short crops, &c.

It was proper to be considered also, that the most important of the advantages would be better obtained by several Banks properly distributed than by a single one. The aids to commerce could only be afforded at or very near the seat of the Bank. The same was true of aids to merchants in the payment of customs. Anticipations of the Government would also be most convenient at the different places where the interest of the debt was to be paid. The case in America was different from that in England: the interest there was all due at one place, and the genius of the Monarchy favored the concentration of wealth and influence at the metropolis.

He thought the plan liable to other objections. It did not make so good a bargain for the public as was due to its interests. The charter to the Bank of England had been granted for eleven years only, and was paid for by a loan to the Government on terms better than could be elsewhere got. Every renewal of the charter had, in like manner, been purchased; in some instances, at a very high price. The same had been done by the Banks of Genoa, Naples, and other like banks of circulation. The plan was unequal to the public creditors; it gave an undue preference to the holders of a particular denomination of the public debt, and to those at and within reach of the seat of Government. If the subscriptions should be rapid, the distant holders of evidences of debt would be excluded altogether.

In making these remarks on the merits of the bill, he had reserved to himself the right to deny the authority of Congress to pass it. He had entertained this opinion from the date of the Constitution. His impression might, perhaps, be the stronger, because he well recollected that a power to grant charters of incorporation had been proposed in the General Convention and rejected.

Is the power of establishing an incorporated Bank among the powers vested by the Constitution in the Legislature of the United States? This is the question to be examined.

After some general remarks on the limitations of all political power, he took notice of the peculiar manner in which the Federal Government is limited. It is not a general grant, out of which particular powers are excepted; it is a grant of particular powers only, leaving the general mass in other hands. So it had been understood by its friends and its foes, and so it was to be interpreted.

As preliminaries to a right interpretation, he laid down the following rules:

An interpretation that destroys the very characteristic of the Government cannot be just.

Where a meaning is clear, the consequences, whatever they may be, are to be admitted—where doubtful, it is fairly triable by its consequences.

In controverted cases, the meaning of the parties to the instrument, if to be collected by reasonable evidence, is a proper guide.

Contemporary and concurrent expositions are a reasonable evidence of the meaning of the parties.

In admitting or rejecting a constructive authority, not only the degree of its incidentality to an express authority is to be regarded, but the degree of its importance also; since on this will depend the probability or improbability of its being left to construction.

Reviewing the Constitution with an eye to these positions, it was not possible to discover in it the power to incorporate a Bank. The only clauses under which such a power could be pretended, are either:

1. The power to lay and collect taxes to pay the debts, and provide for the common defence and general welfare: Or,

2. The power to borrow money on the credit of the United States: Or,

3. The power to pass all laws necessary and proper to carry into execution those powers.

The bill did not come within the first power. It laid no tax to pay the debts, or provide for the general welfare. It laid no tax whatever. It was altogether foreign to the subject.

No argument could be drawn from the terms "common defence, and general welfare." The power as to these general purposes was limited to acts laying taxes for them; and the general purposes themselves were limited and explained by the particular enumeration subjoined. To understand these terms in any sense, that would justify the power in question, would give to Congress an unlimited power; would render nugatory the enumeration of particular powers; would supersede all the powers reserved to the State Governments. These terms are copied from the articles of Confederation; had it ever been pretended, that they were to be understood otherwise than as here explained?

It had been said, that "general welfare" meant cases in which a general power might be exercised by Congress, without interfering with the powers of the States; and that the establishment of a National Bank was of this sort. There were, he said, several answers to this novel doctrine.

1. The proposed Bank would interfere, so as indirectly to defeat a State Bank at the same place.

2. It would directly interfere with the rights of the States, to prohibit as well as to establish Banks, and the circulation of Bank notes. He mentioned a law in Virginia actually prohibiting the circulation of notes payable to bearer.

3. Interference with the power of the States was no constitutional criterion of the power of

Congress. If the power was not given, Congress could not exercise it; if given, they might exercise it, although it should interfere with the laws, or even the Constitution of the States.

4. If Congress could incorporate a Bank, merely because the act would leave the States free to establish Banks also, any other incorporations might be made by Congress. They could incorporate companies of manufacturers, or companies for cutting canals, or even religious societies, leaving similar incorporations by the States, like State Banks to themselves. Congress might even establish religious teachers in every parish, and pay them out of the Treasury of the United States, leaving other teachers unmolested in their functions. These inadmissible consequences condemned the controverted principle.

The case of the Bank established by the former Congress had been cited as a precedent. This was known, he said, to have been the child of necessity. It never could be justified by the regular powers of the articles of Confederation. Congress betrayed a consciousness of this in recommending to the States to incorporate the Bank also. They did not attempt to protect the Bank notes by penalties against counterfeiters. These were reserved wholly to the authority of the States.

The second clause to be examined is that which empowers Congress to borrow money.

Is this a bill to borrow money? It does not borrow a shilling. Is there any fair construction by which the bill can be deemed an exercise of the power to borrow money? The obvious meaning of the power to borrow money, is that of accepting it from, and stipulating payment to those who are able and willing to lend.

To say that the power to borrow involves a power of creating the ability, where there may be the will, to lend is not only establishing a dangerous principle, as will be immediately shown, but is as forced a construction as to say that it involves the power of compelling the will, where there may be the ability, to lend.

The third clause is that which gives the power to pass all laws necessary and proper to execute the specified powers.

Whatever meaning this clause may have, none can be admitted, that would give an unlimited discretion to Congress.

Its meaning must, according to the natural and obvious force of the terms and the context, be limited to means necessary to the end, and incident to the nature of the specified powers.

The clause is in fact merely declaratory of what would have resulted by unavoidable implication, as the appropriate, and, as it were, technical means of executing those powers. In this sense it has been explained by the friends of the Constitution, and ratified by the State Conventions.

The essential characteristic of the Government, as composed of limited and enumerated powers, would be destroyed, if instead of direct and incidental means, any means could be

used which, in the language of the preamble to the bill, "might be conceived to be conducive to the successful conducting of the finances, or might be conceived to tend to give facility to the obtaining of loans." He urged an attention to the diffuse and ductile terms which had been found requisite to cover the stretch of power contained in the bill. He compared them with the terms necessary and proper, used in the Constitution, and asked whether it was possible to view the two descriptions as synonymous, or the one as a fair and safe commentary on the other.

If, proceeded he, Congress, by virtue of the power to borrow, can create the means of lending, and, in pursuance of these means, can incorporate a Bank, they may do any thing whatever creative of like means.

The East India Company has been a lender to the British Government, as well as the Bank, and the South Sea Company is a greater creditor than either. Congress, then, may incorporate similar companies in the United States, and that too not under the idea of regulating trade, but under that of borrowing money.

Private capitals are the chief resources for loans to the British Government. Whatever then may be conceived to favor the accumulation of capitals may be done by Congress. They may incorporate manufacturers. They may give monopolies in every branch of domestic industry.

If, again, Congress by virtue of the power to borrow money, can create the ability to lend, they may, by virtue of the power to levy money, create the ability to pay it. The ability to pay taxes depends on the general wealth of the society, and this, on the general prosperity of agriculture, manufactures, and commerce. Congress then may give bounties and make regulations on all of these objects.

The States have, it is allowed on all hands, a concurrent right to lay and collect taxes. This power is secured to them, not by its being expressly reserved, but by its not being ceded by the Constitution. The reasons for the bill cannot be admitted, because they would invalidate that right; why may it not be conceived by Congress, that a uniform and exclusive imposition of taxes, would not less than the proposed Banks "be conducive to the successful conducting of the national finances, and tend to give facility to the obtaining of revenue, for the use of the Government?"

The doctrine of implication is always a tender one. The danger of it has been felt in other Governments. The delicacy was felt in the adoption of our own; the danger may also be felt, if we do not keep close to our chartered authorities.

Mark the reasoning on which the validity of the bill depends. To borrow money is made the end, and the accumulation of capitals implied as the means. The accumulation of capitals is then the end, and a Bank implied as the means. The Bank is then the end, and a charter

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of incorporation, a monopoly, capital punishments, &c. implied as the means.

If implications, thus remote and thus multiplied, can be linked together, a chain may be formed that will reach every object of legislation, every object within the whole compass of political economy.

The latitude of interpretation required by the bill is condemned by the rule furnished by the Constitution itself.

Congress have power "to regulate the value of money;" yet it is expressly added, not left to be implied, that counterfeiters may be punished.

They have the power "to declare war," to which armies are more incident, than incorporated banks to borrowing; yet the power "to raise and support armies" is expressly added; and to this again, the express power "to make rules and regulations for the government of armies;" a like remark is applicable to the powers as to the navy.

The regulation and calling out of the militia are more appurtenant to war than the proposed Bank to borrowing; yet the former is not left to construction.

The very power to borrow money is a less remote implication from the power of war, than an incorporated monopoly Bank from the power of borrowing; yet, the power to borrow is not left to implication.

It is not pretended that every insertion or omission in the Constitution is the effect of systematic attention. This is not the character of any human work, particularly the work of a body of men. The examples cited, with others that might be added, sufficiently inculcate, nevertheless, a rule of interpretation very different from that on which the bill rests. They condemn the exercise of any power, particularly a great and important power, which is not evidently and necessarily involved in an express power.

It cannot be denied that the power proposed to be exercised is an important power.

As a charter of incorporation, the bill creates an artificial person previously not existing in law. It confers important civil rights and attributes, which could not otherwise be claimed. It is, though not precisely similar, at least equivalent, to the naturalization of an alien, by which certain new civil characters are acquired by him. Would Congress have had the power to naturalize, if it had not been expressly given?

In the power to make by-laws, the bill delegated a sort of Legislative power, which is unquestionably an act of a high and important nature. He took notice of the only restraint on the by-laws, that they were not to be contrary to the law and the constitution of the Bank, and asked what law was intended; if the law of the United States, the scantiness of their code would give a power never before given to a corporation; and obnoxious to the States, whose laws would then be superseded, not only by the

laws of Congress, but by the by-laws of a corporation within their own jurisdiction. If the law intended was the law of the State, then the State might make laws that would destroy an institution of the United States.

The bill gives a power to purchase and hold lands; Congress themselves could not purchase lands within a State "without the consent of its Legislature." How could they delegate a power to others which they did not possess themselves?

It takes from our successors, who have equal rights with ourselves, and with the aid of experience will be more capable of deciding on the subject, an opportunity of exercising that right for an immoderate term.

It takes from our constituents the opportunity of deliberating on the untried measure, although their hands are also to be tied by it for the same term.

It involves a monopoly, which affects the equal rights of every citizen.

It leads to a penal regulation, perhaps capital punishments, one of the most solemn acts of sovereign authority.

From this view of the power of incorporation exercised in the bill, it could never be deemed an accessory or subaltern power, to be deduced by implication, as a means of executing another power; it was in its nature a distinct, an independent and substantive prerogative, which not being enumerated in the Constitution, could never have been meant to be included in it, and not being included, could never be rightfully exercised.

He here adverted to a distinction, which he said had not been sufficiently kept in view, between a power necessary and proper for the Government or Union, and a power necessary and proper for executing the enumerated powers. In the latter case, the powers included in each of the enumerated powers were not expressed, but to be drawn from the nature of each. In the former, the powers composing the Government were expressly enumerated. This constituted the peculiar nature of the Government, no power, therefore, not enumerated could be inferred from the general nature of Government. Had the power of making treaties, for example, been omitted, however necessary it might have been, the defect could only have been lamented, or supplied by an amendment of the Constitution.

But the proposed Bank could not even be called necessary to the Government; at most it could be but convenient. Its uses to the Government could be supplied by keeping the taxes a little in advance; by loans from individuals; by the other Banks, over which the Government would have equal command; nay greater, as it might grant or refuse to these the privilege (a free and irrevocable gift to the proposed Bank) of using their notes in the Federal revenue.

He proceeded next to the contemporary expostitions given to the Constitution.

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The defence against the charge founded on the want of a bill of rights pre-supposed, he said, that the powers not given were retained; and that those given were not to be extended by remote implications. On any other supposition, the power of Congress to abridge the freedom of the press, or the rights of conscience, &c. could not have been disproved.

The explanations in the State Conventions all turned on the same fundamental principle, and on the principle that the terms necessary and proper gave no additional powers to those enumerated.

[Here he read sundry passages from the Debates of the Pennsylvania, Virginia, and North Carolina Conventions, showing the grounds on which the Constitution had been vindicated by its principal advocates, against a dangerous latitude of its powers, charged on it by its opponents.]

He did not undertake to vouch for the accuracy or authenticity of the publications which he quoted. He thought it probable that the sentiments delivered might, in many instances, have been mistaken, or imperfectly noted; but the complexion of the whole, with what he himself and many others must recollect, fully justified the use he had made of them.

The explanatory declarations and amendments accompanying the ratifications of the several States formed a striking evidence, wearing the same complexion. He referred those who might doubt on the subject, to the several acts of ratification.

The explanatory amendments proposed by Congress themselves, at least, would be good authority with them; all these renunciations of power proceeded on a rule of construction, excluding the latitude now contended for. These explanations were the more to be respected, as they had not only been proposed by Congress, but ratified by nearly three-fourths of the States. He read several of the articles proposed, remarking particularly on the 11th and 12th, the former, as guarding against a latitude of interpretation; the latter, as excluding every source of power not within the Constitution itself.

With all this evidence of the sense in which the Constitution was understood and adopted, will it not be said, if the bill should pass, that its adoption was brought about by one set of arguments, and that it is now administered under the influence of another set; and this reproach will have the keener sting, because it is applicable to so many individuals concerned in both the adoption and administration.

In fine, if the power were in the Constitution, the immediate exercise of it cannot be essential; if not there, the exercise of it involves the guilt of usurpation, and establishes a precedent of interpretation, levelling all the barriers which limit the powers of the General Government, and protect those of the State Governments. If the point be doubtful only, respect for ourselves, who ought to shun the appearance of precipitancy and ambition; respect for our suc-

cessors, who ought not lightly to be deprived of the opportunity of exercising the rights of legislation; respect for our constituents, who have had no opportunity of making known their sentiments, and who are themselves to be bound down to the measure for so long a period; all these considerations require that the irrevocable decision should at least be suspended until another session.

It appeared on the whole, he concluded, that the power exercised by the bill was condemned by the silence of the Constitution; was condemned by the rule of interpretation arising out of the Constitution; was condemned by its tendency to destroy the main characteristic of the Constitution; was condemned by the expositions of the friends of the Constitution, whilst depending before the public; was condemned by the apparent intention of the parties which ratified the Constitution; was condemned by the explanatory amendments proposed by Congress themselves to the Constitution; and he hoped it would receive its final condemnation, by the vote of this House.

THURSDAY, February 3.

Mr. CLYMER presented the memorial of sundry widows, creditors of the United States, remonstrating against the funding system, and praying that they may receive six per cent. on the whole amount of the demands against the United States; referred to the Secretary of the Treasury.

A committee, consisting of Messrs. SEDGWICK, STURGES, and CONTEE was appointed to report a bill making a temporary provision for the Clerks and other officers of the Federal Courts; also, compensation to the jurors attending said courts.

BANK OF THE UNITED STATES.

The House resumed the consideration of the bill sent from the Senate, to incorporate the subscribers to the Bank of the United States.

A motion was made by Mr. WILLIAMSON to recommit the bill, for the purpose of amending the first section by prolonging the time for receiving subscriptions from October to April; this motion occasioned some debate, and was determined in the negative; the yeas and nays being as follow:

YEAS.—Messrs. Baldwin, Bloodworth, Brown, Burke, Carroll, Contee, Gale, Giles, Grout, Jackson, Lee, Madison, Matthews, Moore, Sevier, Smith, of South Carolina, Steele, Stone, Tucker, White, and Williamson.—21.

NAYS.—Messrs. Ames, Benson, Boudinot, Bourne, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Griffin, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, Muhlenberg, Parker, Partridge, Rensselaer, Schureman, Scott, Sedgwick, Seney, Sherman, Smith, of Maryland, Sylvester, Sinnickson, Sturges, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—38.

Mr. AMES.—Little doubt remains with re-

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spect to the utility of banks. It seems to be conceded within doors and without, that a public bank would be useful to trade, that it is almost essential to revenue, and that it is little short of indispensably necessary in times of public emergency. In countries whose forms of Government left them free to choose, this institution has been adopted of choice, and in times of national danger and calamity it has afforded such aid to Government as to make it appear, in the eyes of the people, a necessary means of self-preservation. The subject, however intricate in its nature, is at last cleared from obscurity. It would not be difficult to establish its principles, and to deduce from its theory such consequences as would vindicate the policy of the measure. But why should we lose time to examine the theory, when it is in our power to resort to experience? After being tried by that test, the world has agreed in pronouncing the institution excellent. This new capital will invigorate trade and manufactures with new energy. It will furnish a medium for the collection of the revenues; and if Government should be pressed by a sudden necessity, it will afford seasonable and effectual aid. With all these and many other pretensions, if it was now a question whether Congress should be vested with the power of establishing a bank, I trust that this House and all America would assent to the affirmative.

This, however, is not a question of expediency but of duty. We are not at liberty to examine which of several modes of acting is entitled to the preference. But we are solemnly warned against acting at all. We are told that the Constitution will not authorize Congress to incorporate the subscribers to the bank. Let us examine the Constitution, and if that forbids our proceeding, we must reject the bill; though we shall do it with deep regret that such an opportunity to serve our country must be suffered to escape for the want of a constitutional power to improve it.

The gentleman from Virginia considers the opposers of the bill as suffering disadvantage, because it was not debated as bills usually are in the Committee of the whole. He has prepared us to pronounce an eulogium upon his consistency by informing us that he voted in the old Congress against the Bank of North America, on the ground of his present objection to the constitutionality. He has told us that the meaning of the Constitution is to be interpreted by contemporaneous testimony. He was a member of the Convention which formed it, and of course his opinion is entitled to peculiar weight. While we respect his former conduct, and admire the felicity of his situation, we cannot think he sustains disadvantage in the debate. Besides, he must have been prepared with objections to the constitutionality, because he tells us they are of long standing, and had grown into a settled habit of thinking. Why, then, did he suffer the bill to pass the committee in silence? The friends of the bill

have more cause to complain of disadvantage; for while he has had time to prepare his objections, they are obliged to reply to them without premeditation.

In making this reply I am to perform a task for which my own mind had not admonished me to prepare. I never suspected that the objections I have heard stated had existence: I consider them as discoveries; and had not the acute penetration of that gentleman brought them to light, I am sure that my own understanding would never have suggested them.

It seems strange, too, that in our enlightened country the public should have been involved in equal blindness. While the exercise of even the lawful powers of Government is disputed, and a jealous eye is fixed on its proceedings, not a whisper has been heard against its authority to establish a bank. Still, however unseasonably, the old alarm of public discontent is sounded in our ears.

Two questions occur: may Congress exercise any powers which are not expressly given in the Constitution, but may be deduced by a reasonable construction of that instrument? And, secondly, will such a construction warrant the establishment of the bank?

The doctrine that powers may be implied which are not expressly vested in Congress has long been a bugbear to a great many worthy persons. They apprehend that Congress, by putting constructions upon the Constitution, will govern by its own arbitrary discretion; and therefore that it ought to be bound to exercise the powers expressly given, and those only.

If Congress may not make laws conformably to the powers plainly implied, though not expressed in the frame of Government, it is rather late in the day to adopt it as a principle of conduct. A great part of our two years' labor is lost, and worse than lost to the public, for we have scarcely made a law in which we have not exercised our discretion with regard to the true intent of the Constitution. Any words but those used in that instrument will be liable to a different interpretation. We may regulate trade; therefore we have taxed ships, erected light-houses, made laws to govern seamen, &c., because we say that they are the incidents to that power. The most familiar and undisputed acts of Legislation will show that we have adopted it as a safe rule of action to legislate beyond the letter of the Constitution.

He proceeded to enforce this idea by several considerations, and illustrated it by various examples. He said, that the ingenuity of man was unequal to providing, especially beforehand, for all the contingencies that would happen. The Constitution contains the principles which are to govern in making laws; but every law requires an application of the rule to the case in question. We may err in applying it; but we are to exercise our judgments, and on every occasion to decide according to an honest conviction of its true meaning.

The danger of implied power does not arise

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from its assuming a new principle; we have not only practised it often, but we can scarcely proceed without it; nor does the danger proceed so much from the extent of the power as from its uncertainty. While the opposers of the bank exclaim against the exercise of this power by Congress, do they mark out the limits of the power which they will leave to us, with more certainty than is done by the advocates of the bank? Their rules of interpretation by cotemporaneous testimony, the debates of Conventions, and the doctrine of substantive and auxiliary powers will be found as obscure, and of course as formidable as that which they condemn; they only set up one construction against another.

The powers of Congress are disputed. We are obliged to decide the question according to truth. The negative, if false, is less safe than the affirmative, if true. Why, then, shall we be told that the negative is the safe side? Not exercising the powers we have may be as pernicious as usurping those we have not. If the power to raise armies had not been expressed in the enumeration of the powers of Congress, it would be implied from other parts of the Constitution. Suppose, however, that it were omitted, and our country invaded, would a decision in Congress against raising armies be safer than the affirmative? The blood of our citizens would be shed, and shed unavenged. He thought, therefore, that there was too much prepossession with some against the bank, and that the debate ought to be considered more impartially, as the negative was neither more safe, certain, nor conformable to our duty than the other side of the question. After all, the proof of the affirmative imposed a sufficient burthen, as it is easier to raise objections than to remove them. Would any one doubt that Congress may lend money, that they may buy their debt in the market, or redeem their captives from Algiers? Yet no such power is expressly given, though it is irresistibly implied.

If, therefore, some interpretation of the Constitution must be indulged, by what rules is it to be governed? The great end of every association of persons or States is to effect the end of its institution. The matter in debate affords a good illustration: a corporation, as soon as it is created, has certain powers, or qualities, tacitly annexed to it, which tend to promote the end for which it was formed; such as, for example, its individuality, its power to sue and be sued, and the perpetual succession of persons. Government is itself the highest kind of corporation; and from the instant of its formation, it has tacitly annexed to its being, various powers which the individuals who framed it did not separately possess, but which are essential to its effecting the purposes for which it was framed; to declare, in detail, every thing that Government may do could not be performed, and has never been attempted. It would be endless, useless, and dangerous; exceptions of what it may not do are shorter and safer.

Congress may do what is necessary to the end for which the Constitution was adopted, provided it is not repugnant to the natural rights of man, or to those which they have expressly reserved to themselves, or to the powers which are assigned to the States. This rule of interpretation seems to be a safe, and not a very uncertain one, independently of the Constitution itself. By that instrument certain powers are specially delegated, together with all powers necessary or proper to carry them into execution. That construction may be maintained to be a safe one which promotes the good of the society, and the ends for which the Government was adopted, without impairing the rights of any man, or the powers of any State.

This, he said, was remarkably true of the bank; no man could have cause to complain of it; the bills would not be forced upon any one. It is of the first utility to trade. Indeed the intercourse from State to State can never be on a good footing without a bank, whose paper will circulate more extensively than that of any State bank. Whether the power to regulate trade from State to State will involve that of regulating inland bills of exchange and bank paper, as the instruments of the trade, and incident to the power, he would not pause to examine. That is an injury and wrong which violates the right of another. As the bank is founded on the free choice of those who make use of it, and is highly useful to the people and to Government, a liberal construction is natural and safe. This circumstance creates a presumption in favor of its conformity to the Constitution. This presumption is enforced by the necessity of a bank to other Governments. The most orderly Governments in Europe have banks. They are considered as indispensably necessary; these examples are not to be supposed to have been unnoticed. We are to pay the interest of our debt in thirteen places. Is it possible to transport the revenue from one end of the Continent to the other? Nay, a week before the quarter's interest becomes due, transfers may be made which will require double the sum in Boston which was expected. To guard against this danger, an extra sum must be deposited at the different loan-offices. This extra sum is not to be had; our revenue is barely equal to the interest due. This imposes an absolute necessity upon the Government to make use of a bank. The answer is, that the State banks will supply this aid. This is risking a good deal to the argument against the bank; for will they admit the necessity, and yet deny to the Government the lawful and only adequate means of providing for it? Ten of the States have no banks; those who have may abolish theirs, or suffer their charters to expire. But the State banks are insufficient to the purpose; their paper has not a sufficient circulation; of course their capitals are small. Congress is allowed to have a complete legislative power over its own finances; and yet

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without the courtesy of the States it cannot be exercised. This seems to be inconsistent.

If a war should suddenly break out, how is Congress to provide for it? Perhaps Congress would not be sitting; great expenses would be incurred; and they must instantly be provided for. How is this to be done? By taxes? And will the enemy wait till they can be collected? By loans at home? Our citizens would employ their money in war speculations, and they are not individually in a condition to lend a sufficient sum in specie? Or shall we send across the sea for loans? The dispute between England and Spain furnishes an example; the aid of their banks for several millions was prompt and effectual. Or will you say that Congress might issue paper money? That power, ruinous and fallacious as it is, is deduced from implication, for it is not expressly given. A bank only can afford the necessary aid in time of sudden emergency. If we have not the power to establish it, our social compact is incomplete, we want the means of self-preservation.

I shall perhaps be told that necessity is the tyrant's plea. I answer that it is a miserable one when it is urged to palliate the violation of private right. Who suffers by this use of our authority? Not the States, for they are not warranted to establish a National Bank; not individuals, for they will be assisted in trade, and defended from danger by it.

Having endeavored to enforce his argument, by noticing the uses of banks to trade, to revenue, to credit, and in cases of exigency, he adverted to the authority of our own precedents. Our right to govern the Western Territory is not disputed. It is a power which no State can exercise; it must be exercised, and therefore it resides in Congress. But how does Congress get this power? It is not expressly given in the Constitution, but is derived either from the nature of the case, or by implication from the power to regulate the property of the United States. If the power flows from the nature and necessity of the case, it may be demanded, is there not equal authority for the bank? If it is derived from the power of Congress to regulate the territory and other property of the United States, and to make all needful rules and regulations concerning it, and for the disposal of it, a strict construction would restrain Congress merely to the management and disposal of property, and of its own property; yet it is plain that more is intended. Congress has accordingly made rules, not only for governing its own property, but the property of the persons residing there. It has made rules which have no relation to property at all—for punishing crimes. In short, it exercises all power in that territory. Nay, it has exercised this very power of creating a corporation. The Government of that territory is a corporation; and who will deny that Congress may lawfully establish a bank beyond the Ohio? It is fair to reason by analogy from a power which is unquestionable to one which is the subject of debate.

He then asked, whether it appeared on this view of the subject, that the establishment of a National Bank would be a violent misinterpretation of the Constitution? He did not contend for an arbitrary, unlimited discretion in the Government to do every thing. He took occasion to protest against such a misconception of his argument. He had noticed the great marks by which the construction of the Constitution, he conceived, must be guided and limited; and these, if not absolutely certain, were very far from being arbitrary or unsafe. It is for the House to judge whether the construction which denies the power of Congress is more definite and safe.

In proving that Congress may exercise powers which are not expressly granted by the Constitution, he had endeavored to establish such rules of interpretation, and had illustrated his ideas by such observations as would anticipate, in a considerable degree, the application of his principles to the point in question. Before he proceeded to the construction of the clauses of the Constitution which apply to the argument, he observed that it would be proper to notice the qualities of a corporation, in order to take a more exact view of the controversy.

He adverted to the individuality and the perpetuity of a corporation, and that the property of the individuals should not be liable for the debts of the bank or company. These qualities are not more useful to the corporation than conformable to reason; but Government, it is said, cannot create these qualities. This is the marrow of the argument; for Congress may set up a bank of its own, to be managed as public property, to issue notes which shall be received in all payments at the Treasury, which shall be exchangeable into specie on demand, and which it shall be death to counterfeit. Such a bank would be less safe and useful than one under the direction of private persons; yet the power to establish it is indisputable. If Congress has authority to do this business badly, the question returns, whether the powers of a corporation, which are essential to its being well done, may be annexed as incident to it. The bank of New York is not a corporation, yet its notes have credit. Congress may agree with that bank, or with a company of merchants, to take their notes, and to cause all payments to pass through their coffers. Every thing that Government requires and the bank will perform may be lawfully done without giving them corporate powers; but to do this well, safely, and extensively, those powers are indispensable. This seems to bring the debate within a very narrow compass.

This led him to consider whether the corporate powers are incidental to those which Congress may exercise by the Constitution.

He entered into a discussion of the construction of that clause which empowers Congress to regulate the territory and other property of the United States. The United States may hold property, may dispose of it; they may hold

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it in partnership; they may regulate the terms of the partnership. One condition may be, that the common stock only shall be liable for the debts of the partnership, and that any purchaser of a share shall become a partner. These are the chief qualities of a corporation. It seems that Congress, having power to make all needful rules and regulations for the property of the United States, may establish a corporation to manage it; without which we have seen that the regulation cannot be either safe or useful: the United States will be the proprietor of one-tenth of the bank stock.

Congress may exercise exclusive legislation in all cases whatsoever over the ten miles square, and the places ceded by the States for arsenals, light-houses, docks, &c. Of course it may establish a bank in those places with corporate powers. The bill has not restrained the bank to this city; and if it had, the dispute would lose a part of its solemnity. If, instead of principles, it concerns only places, what objection is there to the constitutional authority of Congress to fix the bank at Sandy Hook, or Reedy Island, where we have light-houses, and a right of exclusive legislation? A bank established there, or in the district located by law on the Potomac for the seat of Government, could send its paper all over the Union; it is true that the places are not the most proper for a bank; but the authority to establish it in them overthrows the argument which is deduced from the definite nature of the powers vested in Congress, and the dangerous tendency of the proposed construction of them.

The preamble of the Constitution warrants this remark that a bank is not repugnant to the spirit and essential objects of that instrument.

He then considered the power to borrow money. He said it was natural to understand that authority as it was actually exercised in Europe; which is to borrow of the bank. He observed, the power to borrow was of narrow use without the institution of a bank; and in the most dangerous crisis of affairs would be a dead letter.

After noticing the power to lay and collect taxes, he adverted to the sweeping clause, as it is usually called, which empowers Congress to exercise all powers necessary and proper to carry the enumerated powers into execution. He did not pretend that it gives any new powers; but it establishes the doctrine of implied powers. He then demanded whether the power to incorporate a bank is not fairly relative, and a necessary incident to the entire powers to regulate trade and revenue, and to provide for the public credit and defence.

He entered into a particular answer to several objections, and after recapitulating his argument, he concluded with observing that we had felt the disadvantages of the Confederation; we adopted the Constitution expecting to place the national affairs under a Federal head. This is a power which Congress can only exercise; we may reason away the whole Constitution.

All nations have their times of adversity and danger; the neglect of providing against them in season may be the cause of ruining the country.

FRIDAY, February 4.

FISHERIES.

A report of the Secretary of State on the subject of the fisheries was laid before the House by the Speaker, and read by the clerk; and, on motion, it was voted that this report, with a letter from the French Chargé des Affaires, which accompanied the same, be sent to the Senate.

BANK OF THE UNITED STATES.

The House resumed the consideration of the bill for incorporating the Bank of the United States.

The question being on the passage of the bill, Mr. SEDGWICK said, he would endeavor not to fatigue the patience of the House in the observations he should make on the important subject now under consideration. Without entering into the discussion on a scale so extensive as had been indulged by some gentlemen, he would dwell only on a few important principles, and such consequences as were conclusively deducible from them, which had made a strong impression on his own mind. The opposition to the bill had called in question the constitutional powers of Congress to establish the proposed corporation, and the utility of banks, neither of which till within a few days did he suppose was doubted by any intelligent man in America; and had charged the present system with holding out unequal terms against the Government to those who should subscribe to the proposed stock.

With regard to the question of constitutionality much had been said which, in his opinion, had not an intimate relation to the subject now before the House. We have with great earnestness been warned of the danger of grasping power by construction and implication; and this warning has been given in very animated language by the gentleman from Virginia (Mr. MADISON.) I do not wish to deprive that member of the honor of consistency; but I well remember the time when the energy of his reasoning impressed on the minds of the majority of this House a conviction that the power of removal from office, holden at pleasure, was, by construction and implication, vested by the Constitution in the President, for there could be no pretence that it is expressly granted to him.

He would only observe, in answer to every thing which had been said of the danger of extending construction and implication, that the whole business of Legislation was a practical construction of the powers of the Legislature; and that probably no instrument for the delegation of power could be drawn with such precision and accuracy as to leave nothing to necessary implication. That all the different Legis-

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latures in the United States had, and this, in his opinion, indispensably must construe the powers which had been granted to them, and they must assume such auxiliary powers as are necessarily implied in those which are expressly granted. In doing which, it was no doubt their duty to be careful not to exceed those limits to which it was intended they should be restricted. By any other limitation the Government would be so shackled that it would be incapable of producing any of the effects which were intended by its institution.

He observed, that on almost all the great and important measures which come under the deliberation of Congress there were immense difficulties to be surmounted. If we attempt, said he, to proceed in one direction, our ears are assailed with the exclamation of "the Constitution is in danger;" if we attempt to attain our objects by pursuing a different course, we are told the pass is guarded by the stern spirit of democracy. Did I concur with gentlemen in opinion on this subject, I should think it my duty to go home to my constituents, and honestly declare to them that by their jealousy of power they had so restrained the operations of the Government that we had not the means of effecting any of the great purposes for which the Constitution was designed, without attempting, what perhaps would be found impracticable, to fix by general rules the nice point within which Congress would be authorized to assume powers by construction and implication, and beyond which they may be justly considered as usurpers.

He wished gentlemen to reflect what effect a single principle, universally acknowledged, would have in determining the question now under consideration. It is universally agreed that wherever a power is delegated for express purposes, all the known and usual means for the attainment of the objects expressed are conceded also. That to decide what influence this acknowledged principle would have on the subject before the House, it would be necessary to reflect on the powers with which Congress are expressly invested. He then repeated that Congress was authorized to lay and collect taxes, to borrow money on the credit of the United States, to raise and support armies, provide and maintain navies, to regulate foreign and domestic trade, and to make all laws necessary and proper to carry these and the other enumerated powers into effect. They were, in fine, entrusted with the exercise of all those powers which the people of America thought necessary to secure their fame and happiness against the attacks of internal violence and external invasion, and in the exercise of those powers the Legislature was authorized, agreeably to the principle which he had mentioned, to employ all the known and usual means necessary and proper to effectuate the ends which are expressed. It might be of use to determine with precision what was the meaning of the words *necessary and proper*:—they

did not restrict the power of the Legislature to enacting such laws only as are indispensable. Such a construction would be infinitely too narrow and limited; and to apply the meaning strictly, it would prove, perhaps, that all the laws which had been passed were unconstitutional; for few, if any of them, could be proved indispensable to the existence of the Government. The conduct of Congress had a construction on those words more rational and consistent with common sense and the purposes for which the Government was instituted; which he conceived to be that the laws should be established on such principles, and such an agency in the known and usual means employed in the execution of them as to effect the ends expressed in the Constitution with the greatest possible degree of public utility. If banks were among the known and usual means to effectuate or facilitate the ends which had been mentioned, to enable the Government with the greatest ease and least burthen to the people to collect taxes, borrow money, regulate commerce, raise and support armies, provide and maintain fleets, he thought the argument irrefragable and conclusive to prove the constitutionality of the bill. Pursuing further the same idea, he asked for what purposes were banks instituted and patronised by Governments which were unrestricted by constitutional limitations? Were they not employed as the means and the most useful engines to facilitate the collection of taxes, borrowing money, and the other enumerated powers? Besides, he said, it was to be observed that the Constitution had expressly declared the ends of Legislation; but in almost every instance had left the means to the honest and sober discretion of the Legislature. From the nature of things this must ever be the case; for otherwise the Constitution must contain not only all the necessary laws under the existing circumstances of the community but also a code so extensive as to adapt itself to all future possible contingencies. By our Constitution Congress has not only the power to lay and collect taxes, but to do every thing subordinate to that end; the objects, the means, the instruments, and the purposes are left to the honest and sober discretion of the Legislature. The power of borrowing money was expressly granted; but all the known and usual means to that end were left in silence. The same observations might with truth be made respecting the other delegated powers. The great ends to be obtained as means to effectuate the ultimate end—the public good and general welfare, are capable, under general terms, of constitutional specification; but the subordinate means are so numerous, and capable of such infinite variation, as to render an enumeration impracticable, and must therefore be left to construction and necessary implication. He said, on this ground, he was willing to leave the general argument; it was simple, intelligible, and he hoped would be thought conclusive.

He said the constitutionality had been attack-

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ed from another quarter. It was said, we could not give commercial advantages to one port above another. The constitutional provision which had been quoted was undoubtedly intended to prevent a partial regulation of commerce; if extended to the case under consideration, it would much more strongly prove that Congress ought not to reside in any commercial city; for he verily believed that the commercial advantages of Philadelphia were incomparably greater from that residence than they could be supposed from the institution of a National Bank. Indeed, it was his opinion that, considering that this city had a bank, the capital of which was adequate to all her commercial exigencies; that she could enlarge that capital as her necessity should require; and that her bank will, if this bill should be rejected, receive the benefit of national operations, that the measure will not advance her individual interest.

With regard to the utility of banks, he observed that he would not attempt to display a knowledge of the subject by repeating all he had read and heard in relation to it, nor fatigue the House by a detail of his own reflections and reasoning upon it; the causes were unnecessary to be explained; the effects had been such in all countries where banks had been instituted, as to produce an unanimous opinion that they were alike useful for all the great purposes of Government, and to promote the general happiness of the people. Nor was our own experience wanting to the same purpose. At a time when our public resources were almost annihilated, our credit prostrate, our Government imbecile, and its patronage considerable, a bank of small capital was among the most operative causes which produced that first dawn that ultimately terminated in meridian splendor by the establishment of peace, independence, and freedom. There were two circumstances which he would take the liberty to mention, which would render banks of more importance in this country than in any other country where they are at present in use: the first, the commercial enterprise of our merchants compared with the smallness of their capitals, which, as we had no large manufacturing capitals, whereby the precious metals could be retained in circulation, would frequently, by their exportation, greatly distress the people; the other originated from a measure of the Government—Congress, from a laudable intention of accommodating their constituents, instituted Treasuries in all the States, in some of these there would be, in the ordinary course of events, a deficiency, and in others a redundancy. To keep them in equilibrium by the transportation of the precious metals, or by the purchase of bills in the market, would be not only inconvenient and expensive but would keep out of circulation a considerable part of the medium of the country.

Gentlemen had been pleased to consider the proposed terms as giving an undue advantage to the stockholders. He would leave this part

of the subject to gentlemen who better understood it; only observing, that as Government must rely principally on merchants to obtain the proposed stock, it would be necessary to afford to them sufficient motives to withdraw from their commercial pursuits a part of their capitals.

He would attempt an answer to some of those desultory objections which had been made, and in doing this, he would omit to answer such as had been, in his opinion, already refuted. He observed, that it had been said that granting charters of incorporation was a high prerogative of Government. He supposed it was not intended that it was, in the nature of things, too transcendent a power to be exercised by a National Government, but that the exercise of it should only be in consequence of express delegation. Let this objection be compared with the conduct of Congress on another subject, in all respects at least as important. There is not by the Constitution any power expressly delegated to mortgage our revenues, and yet without any question being made on the constitutionality of the measure, we have mortgaged them to an immense amount. From whence, he asked, do we acquire the authority to exercise this power? Not from express grants, but being empowered to borrow money on the credit of the United States, we have very properly considered the pledging funds as among the known and usual means necessary and proper to be employed for the attainment of the end expressly delegated.

It has been said that the bill authorized the stockholders to purchase real estate. He considered the provision in the bill in that regard, not a grant, but a limitation of power. Any man, or body of men, might, by the existing laws, purchase, in their own private capacities, real estate to any amount. This right was limited as it respected the proposed corporation.

It is said there are banks already, and therefore the proposed incorporation is unnecessary. To this he answered, that if the Government should agree to receive all its demands in the paper of the existing banks, it would give to them every advantage which, in the opinion of gentlemen, renders the present system objectionable, without stipulating for any equivalent to the Government. But are, he asked, gentlemen serious in these observations? Do they believe the capitals of those banks adequate to the exigencies of the nation? Do they believe that those banks possess any powers by which they can give a projectile force to their paper, so as to extend its circulation throughout the United States? Or do they really wish to have the Government repose itself on institutions with which they have no intimate connexion, and over which they have no control?

Mr. S. concluded by observing he was very confident a majority of that House could never be induced to believe that it was the intention of the Constitution to deprive the Legislature of one of the most important and necessary

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means of executing the powers expressly delegated.

Mr. LAWRENCE.—The advocates of this measure stand in an unfortunate situation; for being those who in general advocate national measures, they are charged with designs to extend the powers of the Government unduly. He, however, consoled himself with a conscious attachment to the Constitution, and with the reflection that their conduct received the approbation of their constituents. If the present be contrasted with the former circumstances of this country, he doubted not the measures of this Government would continue to receive the approbation of the people of the United States.

The silence of the people on the subject now before the House is strongly presumptive that the measure of the bank is not considered by them as unconstitutional. He then endeavored to show the constitutionality of the bank system. It must be conceded that there is nothing in the Constitution that is expressly against it, and therefore we ought not to deduce a prohibition by construction; he adverted to the amendment proposed by Congress to the Constitution, which says powers "not delegated are retained;" here, said he, to prove that the bank is unconstitutional, the constructive interpretation so much objected against is resorted to.

The great objects of this Government are contained in the context of the Constitution. He recapitulated those objects, and inferred that every power necessary to secure these must necessarily follow; for as to the great objects for which this Government was instituted, it is as full and complete in all its parts as any system that could be devised; a full uncontrollable power to regulate the fiscal concerns of this Union is a primary consideration in this Government, and from hence it clearly follows that it must possess the power to make every possible arrangement conducive to that great object.

He then adverted to the late Confederation, and pointed out its defects and incompetency; and hence the old Congress called on the States to enact certain laws which they had not power to enact; from hence he inferred; that as the late Confederation could not pass those laws, and to capacitate the Government of the United States, and form a more perfect union, the Constitution under which we now act was formed. To suppose that this Government does not possess the powers for which the Constitution was adopted involves the grossest absurdity.

The deviation from charters and the infringement of parchment rights, which had been justified on the principle of necessity by the gentleman from Virginia, (Mr. MADISON,) he said, had been made on different principles from those now mentioned; the necessity, he contended, did not at the time exist; the old Congress exercised the power, as they thought, by a fair construction of the Confederation.

On constructions, he observed, it was to be lamented that they should ever be necessary; but they had been made; he instanced the power of removability, which had been an act of the three branches, and has not been complained of. It was at least as important a one as the present.

But the construction now proposed, he contended, was an easy and natural construction. Recurring to the collection law, he observed, that it was by construction that the receipts are ordered to be made in gold and silver.

With respect to creating a mass of capital, he supposed, just and upright national measures would create a will to form this capital.

Adverting to the idea that Congress has not the power to establish companies with exclusive privileges, he observed, that by the amendments proposed by New Hampshire, Massachusetts, and New York, it plainly appears that these States considered that Congress does possess the power to establish such companies.

The Constitution vests Congress with power to dispose of certain property in lands, and to make all useful rules and regulations for that purpose; can its power be less over one species of its own property than over another?

With respect to giving preference to one State over another, he observed, that ten years hence the seat of Government is to be on the Potomac, and wherever the Government is finally settled, the place will enjoy superior advantages; but still the Government must go there, and the places not enjoying those advantages must be satisfied.

It is said we must not pass a problematical bill, which is liable to a supervision by the Judges of the Supreme Court; but he conceived there was no force in this, as those Judges are invested by the Constitution with a power to pass their judgment on all laws that may be passed.

It is said that this law may interfere with the State Governments; but this may or may not be the case; and in all interference of the kind the particular interest of a State must give way to the general interest.

With respect to the corporation possessing the power of passing laws, this, he observed, is a power incidental to all corporations; and in the instance of the Western Territory, Congress have exercised the power of instituting corporations or bodies politic to the greatest possible extent.

He defended the right of Congress to purchase and possess property, and quoted a passage in the Constitution to show that they possess this right.

He then touched on the expediency of banks, and of that proposed in particular. The advantages generally derived from these institutions, he believed, applied peculiarly to this country. He noticed the objection from banks banishing the specie; he said the surplus only would be sent out of the country; but is it given away? No, sir, it is sent off for articles

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which are wanted, and which will enrich the country.

With respect to a run on the bank, he mentioned the circumstances under which those runs on the British banks, which had been noticed, took place; and showed there was no parallel that would probably ever take place in this country.

From several particulars he showed that the objection which arose from the United States not having a good bargain by the system was not well founded. He then mentioned the peculiar advantages which the United States will enjoy over common subscribers.

The objection from banks being already established in the several States he obviated by stating the mischiefs which might arise from an ignorance of the situation of those banks; and concluded by some remarks on the inexpediency of the General Government having recourse to institutions of merely a local nature.

Mr. JACKSON said, that having been the person who brought forward the constitutional objection against the bill, he thought himself bound to notice the answers which had been offered to that objection. Newspaper authorities, said he, have been alluded to, and their silence on the subject considered as indicating the approbation of the people. He would meet the gentlemen on that ground; and, though he did not consider newspapers as an authority to be depended on, yet if opinions through that channel were to be regarded, he would refer gentlemen to those of this city; the expediency and constitutionality of the bill has been called in question by the newspapers of this city.

The latitude contended for in construing the Constitution on this occasion he reprobated very fully. If the sweeping clause, as it is called, extends to vesting Congress with such powers, and necessary and proper means are an indispensable implication in the sense advanced by the advocates of the bill, we shall soon be in possession of all possible powers, and the charter under which we sit will be nothing but a name.

This bill will essentially interfere with the rights of the separate States, for it is not denied that they possess the power of instituting banks; but the proposed corporation will eclipse the Bank of North America, and contravene the interests of the individuals concerned in it.

He then noticed the several arguments drawn from the doctrine of implication; the right to incorporate a National Bank has been adduced from the power to raise armies; but he presumed it would not be contended that this is a bill to provide for the national defence. Nor could such a power, in his opinion, be derived from the right to borrow money. It has been asked what the United States could do with the surplus of their revenue without the convenience of a bank in which to deposit it with advantage? For his part, though he wished to anticipate pleasing occurrences, he did not look forward to the time when the General Government

would have this superabundance at its disposal. The right of Congress to purchase and hold lands has been urged to prove that they can transfer this power; but the General Government is expressly restricted in the exercise of this power; the consent of the particular State to the purchase for particular purposes only is requisite; these purposes are designated, such as building light-houses, erecting arsenals, &c.

It has been said that banks may exist without a charter; but that this incorporation is necessary in order that it may have a hold on the Government. Mr. J. strongly reprobated this idea. He was astonished to hear such a declaration, and hoped that such ideas would prevent a majority of the House from passing a bill that would thus establish a perpetual monopoly; we have, said he, I believe, a perpetual debt; I hope we shall not have a perpetual corporation. What was it drove our forefathers to this country? Was it not the ecclesiastical corporations and perpetual monopolies of England and Scotland? Shall we suffer the same evils to exist in this country instead of taking every possible method to encourage the increase of emigrants to settle among us? For if we establish the precedent now before us, there is no saying where it will stop.

The power to regulate trade is said to involve this as a necessary means; but the powers consequent on this express power are specified, such as regulating light-houses, ships, harbors, &c. It has been said that Congress has borrowed money; this shows that there is no necessity of instituting any new bank, those already established having been found sufficient for the purpose. He denied the right of Congress to establish banks at the permanent seat of Government, or on those sand heaps mentioned yesterday; for if they should, they could not force the circulation of their paper one inch beyond the limits of those places. But it is said, if Congress can establish banks in those situations, the question becomes a question of place and not of principle; from hence it is inferred that the power may be exercised in any other part of the United States. This appeared to him to involve a very dangerous construction of the powers vested in the General Government.

Adverting to the powers of Congress in respect to the finances of the Union, he observed that those powers did not warrant the adoption of whatever measures they thought proper; the Constitution has restricted the exercise of those fiscal powers; Congress cannot lay a poll tax, nor impose duties on exports; yet these undoubtedly relate to the finances.

The power exercised in respect to the Western Territory, he observed, had reference to property already belonging to the United States; it does not refer to property to be purchased, nor does it authorize the purchase of any additional property; besides, the powers are express and definite, and the exercise of them in making needful rules and regulations in the Gov-

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ernment of that Territory does not interfere with the rights of any of the respective States.

Mr. J. denied the necessity of the proposed institution; and, noticing the observation of Mr. AMES, that it was dangerous on matters of importance not to give an opinion, observed that he could conceive of no danger that would result from postponing that construction of the Constitution now contended for to some future Congress, who, when the necessity of a banking institution shall be apparent, will be as competent to the decision as the present House. Alluding to the frequent representations of the flourishing situation of the country, he inferred that this shows the necessity of the proposed institution does not exist at the present time; why, then, should we be anticipating for future generations? State banks he considered preferable to a National Bank, as counterfeits can be detected in the States; but if you establish a National Bank, the checks will be found only in the city of Philadelphia or Connogochegue. He passed an eulogium on the Bank of Pennsylvania; the stockholders, said he, are not speculators; they have the solid coin deposited in their vaults.

He adverted to the preamble and context of the Constitution, and asserted that this context is to be interpreted by the general powers contained in the instrument. Noticing the advantages which it had been said would accrue to the United States from the bank, he asked, is the United States going to commence stockjobbers? The "general welfare" are the two words that are to involve and justify the assumption of every power. But what is this general welfare? It is the welfare of Philadelphia, New York, and Boston; for as to the States of Georgia and New Hampshire, they may as well be out of the Union for any advantages they will receive from the institution. He reprobated the idea of the United States deriving any emolument from the bank, and more especially he reprobated the influence which it was designed the Government should enjoy by it. He said the Banks of Venice and Amsterdam were founded on different principles. In the famous Bank of Venice, though the Government holds no shares, yet it has at command five millions of ducats; but the United States were to be immediately concerned in theirs, and become stockjobbers. The Bank of Amsterdam was under the entire direction of the burgomasters, who alone had the power of making by-laws for its regulation: this power, by the bill, was given up by Government, very improperly he thought, and was to be exercised by the stockholders. The French Bank, he added, was first established upon proper principles and flourished; but afterwards became a Royal Bank; much paper was introduced, which destroyed the establishment, and was near overthrowing the Government.

The facility of borrowing he deprecated; it will involve the Union in irretrievable debts; the facility of borrowing is but another name

for anticipation, which will in its effects deprive the Government of the power to control its revenues; they will be mortgaged to the creditors of the Government: let us beware of following the example of Great Britain in this respect. He said, undue advantages had been taken in precipitating the measure, and the reasonable proposition respecting the State debts is not admitted. This I consider as partial and unjust. A gentleman from Virginia has well observed that we appear to be divided by a geographical line; not a gentleman scarcely to the Eastward of a certain line is opposed to the bank, and where is the gentleman to the Southward that is for it? This ideal line will have a tendency to establish a real difference. He added a few more observations, and concluded by urging a postponement, if any regard was to be had to the tranquillity of the Union.

Mr. BODINOT said he meant to confine himself to two or three great points on which the whole argument appeared to him to rest. He considered the objections to the bill as pointed against its constitutionality and its expediency. It was essential, he observed, that every member should be satisfied as far as possible of the first, for however expedient it might be, if it was clearly unconstitutional, the bill should never receive the sanction of the representatives of the people. He would, in a great measure, refer its expediency, if constitutional, to the experience of every gentleman of the House, as the most satisfactory proof on that head, and he conceived there was no need of much argument in support of its decision. The first question then was, is Congress vested with a power to grant the privileges contained in the bill? This is denied, and ought to be proved. In order to show in what manner this subject had struck his mind, he first laid down these principles.

Whatever power is exercised by Congress must be drawn from the Constitution; either from the express words or apparent meaning, or from a necessary implication arising from the obvious intent of the framers.

That whatever powers (vested heretofore in any individual State) not granted by this instrument, are still in the people of such State, and cannot be exercised by Congress. That whatever implication destroys the principle of the Constitution ought to be rejected. That in construing an instrument, the different parts ought to be so expounded as to give meaning to every part which will admit of it.

Having stated these preliminaries, Mr. B. proceeded to inquire what were the powers attempted to be exercised by this bill? For until the powers were known, the question of constitutionality could not be determined.

By it Congress was about to exercise the power of incorporating certain individuals, thereby establishing a banking company for successfully conducting the finances of the nation.

The next inquiry is, what rights will this company enjoy in this new character, that they

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do not enjoy independent of it? Every individual citizen had an undoubted right to purchase and hold property, both real and personal, to any amount whatever; to dispose of this property to whom and on what terms he pleased; to lend his money on legal interest to any person willing to take the same; and indeed to exercise every power over his property that was contained in the bill. Individual citizens, then, having these powers, might also associate together in company or copartnership, and jointly exercising the same rights, might hold lands in joint-tenancy, or as tenants in common, to any amount whatever; might put any sum of money into joint stock; might issue their notes to any amount; might make by-laws or articles of copartnership for their own government; and, finally, might set up a bank to any amount, however great, and no authority in the Government could legally interfere with the exercise of these rights. The great difference between this private association of citizens, in their individual capacities, and the company to be created by this bill, and which is held up in so dangerous a light, is, that the one exposes the company to the necessity of using each individual's name in all their transactions; suits must be brought in all their names; deeds must be taken and given in like manner; each one in his private estate is liable for the default of the rest; the death of a member dissolves the partnership as to him; and for want of a political existence the union may be dissolved by any part of its members, and of course many obvious inconveniences must be suffered merely of an official kind. By the bill these difficulties are to be removed by conveying three qualities to them.

1st. Individuality, or constituting a number of citizens into one legal artificial body, capable by a fictitious name of exercising the rights of an individual.

2d. Irresponsibility in their individual capacity, not being answerable beyond the joint capital.

3d. Durability, or a political existence for a certain time, not to be effected by the natural death of its members.

These are the whole of the powers exercised, and the rights conveyed. It is true these are convenient and advantageous to the company, but of trifling importance when considered as a right of power exercised by a National Legislature for the benefit of the Government. Can it be of any importance to the State whether a number of its citizens are considered in legal contemplation as united in an individual capacity, or separately as so many individuals, especially if the public weal is thereby promoted? By their irresponsibility being known, every person dealing with them gives his tacit consent to the principle, and it becomes part of the contract. And by political duration their powers and abilities are limited, and their rights restricted, so as to prevent any danger that might arise from the exercise of their joint

natural right, not only as to the amount of their capital, but as to the by-laws they may make for their government.

A private bank could make contracts with the Government and the Government with them, to all intents and purposes as great and important as a public bank, would their capital admit of it; though they would not possess such qualities as to justify the confidence of Government, by depending on them in a time of danger and necessity. This might put it in the power of any individuals to injure the community in its essential interests by withdrawing the capital when most needed. To prevent this and many other inconveniences it is necessary that a bank for the purposes of Government should be a legally artificial body, possessing the three qualities above mentioned.

Mr. B. then took up the Constitution, to see if this simple power was not fairly to be drawn by necessary implication from those vested by this instrument in the Legislative authority of the United States. It sets out in the preamble with declaring the general purposes for which it was formed:—"the insurance of domestic tranquillity, provision for the common defence, and promotion of the general welfare." These are the prominent features of this instrument, and are confirmed and enlarged by the specific grants in the body of it, where the principles on which the Legislature should rest their after proceedings are more fully laid down, and the division of power to be exercised by the general and particular Governments distinctly marked out. By the eighth section, Congress has power "to levy taxes, pay debts, provide for the common defence and general welfare, declare war, raise and support armies, provide for and maintain a navy;" and as the means to accomplish these important ends, "to borrow money," and, finally, "to make all laws necessary and proper for carrying into execution the foregoing powers." Let us, then, inquire, is the constituting a public bank necessary to these important and essential ends of Government? If so, the right to exercise the power must be in the supreme Legislature.

He argued that the power was not contained in express words, but that it was necessarily deduced by the strongest and most decisive implication, because he contended that it was a necessary means to attain a necessary end. Necessary implication had led Congress under the power to lay and collect impost and taxes, to establish officers for the collection, to inflict penalties against those who should defraud the revenue, to oblige vessels to enter at one port and deliver in another; subjected them to various ceremonies in their proceedings, for which the owners were made to pay; and he conceived that it was not so great an exertion of power by implication to incorporate a company for the purpose of a bank. He also deduced the right from the power of paying debts, raising armies, providing for the general welfare and common defence, for which they were to bor-

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row money. All these necessarily include the right of using every proper and necessary means to accomplish these necessary ends. It is certain, he said, that money must be raised from the people. This could not be done in sums sufficient for the exigencies of Government in a country where the precious metals were as scarce as in this. The people in general are poor when compared with European nations; they have a wilderness to subdue and cultivate; taxes must be laid with prudence, and collected with discretion; the anticipation of the revenues, therefore, by borrowing money, becomes absolutely necessary. If so, then as the Constitution had not specified the manner of borrowing, or from whom the loan was to be obtained, the supreme Legislature of the Union were at liberty, it was their duty to fix on the best mode of effecting the purposes of their appointment. For it was a sound principle, that when a general power is granted, and the means are not specified, they are left to the discretion of those in whom the trust is reposed, provided they do not adopt means expressly forbidden. The public defence, or general welfare, resting on the annual supplies from uncertain revenues, would expose the very existence of the community. It is the duty of those to whom the people have committed this power to prepare in time of peace for the necessary defence in a time of war. The United States are now happily in a state of peace; but it was impossible for any one to say how long it would continue. By prudent management it might be long preserved; but this prudence consisted in being always found in a state of preparation to defend our country.

The Constitution contemplates this very duty by authorizing Congress to provide for the common defence by borrowing money. Why borrow money? Are not the annual revenues sufficient? It might be so if nothing was to be attended to but internal wants; but the common defence and general welfare loudly call for that provision which will produce a constant guard on external enemies and internal insurrections. To this necessary end it becomes Congress to provide that the necessary means may be always at hand, by being able to arm their citizens and provide for their support while engaged in the defence of their common country. This can be done only by borrowing money which is usually of citizens or foreigners; if of the first, it must be from individuals or from private banks: will it be prudent to trust to either? Loans from individuals were attempted during the war, when patriotism produced a will in some lenders, and others were glad to get rid of a depreciating paper currency almost on any terms whatever.

But even these loans, arising from this paper medium with which the market was glutted, were altogether insufficient; and by one change of circumstances every hope was precluded of being any way successful in procuring money from that source. The circumstances of indi-

viduals, too, in this country are such, when compared with the wants of a nation, as to render the source too vague and uncertain to rely upon; and it would be a most improvident execution of the powers granted for the express purpose of the common defence and general welfare. Private banks are almost as inadequate to the object, and for reasons already given were neither to be depended on for will or capital as to the supply for the principal wants of Government. They are generally established for commercial purposes, and on capitals not always sufficient for them. If they should be prevailed upon at any time to attempt to supply the demands of a nation at war, it must be from a general combination of their whole stocks, to the destruction of the original designs of their several institutions. This ought not to be expected; for as far as it goes to the depression of the mercantile interests, so far it is injurious to the Government; besides, a dependence upon such a combination would be impolitic, both from its slowness and uncertainty. The votes of a few individuals affected by local, selfish, or adverse politics might endanger the whole people. Such a dependence ought not to be attributed to the wise framers of the Constitution, neither does the language warrant it. But foreign loans have been mentioned, as a proper source for this purpose. The imprudence of placing the common defence of a nation on the will of those who have no interest in its welfare is a good answer to this observation. Would it be prudent to trust a foreigner, perhaps a rival, if not an enemy, with your supply of what has emphatically been called the sinews of war? Would it not expose us to exorbitant demands, and often a refusal? Many adventitious circumstances of a war, increasing demands from all quarters, scarcity of coin, and difficulty of communication, as well as the intrigues of Courts, all loudly oppose the measure, as contrary to the spirit and meaning of a provision for the common defence and general welfare. The only resort then, he conceived, was by a timely provision to secure institutions at home from which loans might be obtained at all times on moderate terms and to such amount as the necessity of the State might require. But gentlemen say that the Constitution does not expressly warrant the establishment of such a corporation. If by *expressly*, express words are meant, it is agreed that there are no express words; and this is the case with most of the powers exercised by Congress; for if the doctrine of necessary implication is rejected, he did not see what the supreme Legislature of the Union could do in that character. If this power is not clearly given in the Constitution by necessary implication, then is a necessary end proposed and directed, while the common and usual necessary means to attain that end are refused, or at least not granted.

Mr. B. was firmly of opinion that a National Bank was the necessary means, without which the end could not be obtained. Theory proved

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it so in his opinion, and the experience of the Union in a day of distress had fully confirmed the theory. The struggles of the friends of freedom during the late contest had nearly been rendered abortive for want of this aid. That danger which was then so hardly avoided became a solemn memento to this House to provide against a similar case of necessity. This was the time to do it with advantage, being in such profound peace. He had not heard any argument by which it was proved that either individuals, private banks, or foreigners could with safety and propriety be depended on as the efficient and necessary means for so important a purpose. Although money was at present plentiful in Europe, and might be borrowed on easy terms, it might not be so tomorrow, in case a war should break out, and our necessities become pressing. He again enumerated the harmless qualities with which it was proposed to vest the bank corporation, by the bill on the table, for the important purposes of the common defence and general welfare. Gentlemen had not yet pointed out any danger arising to the community, neither did he think it was possible that any could ever be mentioned equal to those of suffering the Government to depend on individuals or private banks for loans in a day of distress.

But it was said that this bill gave the corporation a right to hold real property in a State, which Congress had no powers to do. The terms of the bill are misapprehended; this is a right which has already been shown attaches to the citizens individually, or in their associated capacity; the bill therefore does no more than to vest a number with an artificial single capacity under a fictitious name, and by that name to hold lands, make by-laws, &c.; all which they might have done before as citizens in a collective capacity. So far from giving a new power, their original individual rights are limited for the public safety as to the amount of their stock and the duration of their existence.

Mr. B. then proceeded to cite numerous instances of powers exercised by Congress during the last two years, deduced under the Constitution by necessary implication, to show the utter impossibility of carrying any one provision of that authority into execution for the benefit of the people without this reasonable latitude of construction. He also adverted to some instances of the like conduct under the former Confederation. It had been urged that the new Congress had no rights or powers but what had been vested in and given to them by the individual States, and therefore they could not accept a cession from Great Britain by the treaty of peace of the lands extending to the Lake of the Woods, because not before included in any individual State. Every member was soon convinced of the absurdity of the argument, and by a necessary implication established the power of the Confederated Legislature. During the war the commander-in-chief gave a passport to a British officer to

transmit clothing to the British prisoners at Lancaster. He accordingly conveyed a very large quantity of British goods into Pennsylvania for that purpose; which being directly against an express law of that State, they were seized and condemned by the proper magistrate. On a complaint to the Legislature of the State, they referred the same to their Judicial officers, upon whose report (that Congress being vested with the power of declaring war, the right of giving safe passports to an enemy was necessarily implied, which therefore was duly exercised by their commander-in-chief, though no express power was given to him for that purpose) the Legislature declared their law directing the condemnation of the goods void *ab initio*, and the judgment of condemnation had no effect.

This was also the rule that governed this House with regard to the removability of officers by the President, and the authority given to a Council to legislate for the Western Territory. In fine, he concluded, that it was universally understood that whenever a general power was given, especially to a supreme Legislature, every necessary means to carry it into execution were necessarily included. This was the common sense of mankind, without which it would require a multitude of volumes to contain the original powers of an increasing Government that must necessarily be changing its relative situation every year or two.

If power was given to raise an army, the making provision for all the necessary supplies and incident charges were included. If a navy was to be formed, the manning and supplying the warlike stores are necessarily understood. If a power is given to borrow money, a right to mortgage or pledge the public property to secure the repayment is understood to be vested in the borrower. Take up the present statute book, and every page will afford evidence of this doctrine. Examine the law with regard to crimes and punishments; under the power of establishing courts we have implied the power of punishing the stealing and falsifying the records, and ascertained the punishment of perjury, bribery, and extortion. Under the power of regulating trade, we have accepted cessions of real estate, and built light-houses, piers, &c. All this is under the doctrine of necessary implication for the public good; and in cases not so strong as the present, and on the exercise of which no gentleman thought proper to start this objection.

This construction appears so natural and necessary, that the good sense of every gentleman on the floor has hitherto led him to proceed on this principle ever since we began to legislate: what principle of the Constitution does it destroy? It gives nothing that can effect the rights of any State or citizen. Indeed it has been said that it is exercising a high act of power; he thought it had been shown to be rather of the inferior kind; but allow the position, and who so proper as the Legislature of

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the whole Union to exercise such a power for the general welfare. It has also been said that this power is a mere convenience for the purpose of fiscal transactions, but not necessary to attain the ends proposed in the Constitution. This is denied, and at best is mere matter of opinion, and must be left to the discretion of the Legislature to determine.

Mr. B. said, he should now conclude what he had to say, had not an honorable gentleman (Mr. JACKSON) brought forward the observations of the author of the *Federalist*, vol. 2, p. 72, 73, and 74, to show a different contemporaneous exposition of the Constitution, and charged the author, who he alleged was said to be also the author of the present plan before the House, with a change of sentiment. As this gentleman is not here to speak for himself, he ought to have the next best chance by having what he then wrote candidly attended to, especially as gentlemen allow him to be good authority. Mr. B. read only part of the 73d page referred to by Mr. JACKSON, in these words: "Had the Convention attempted a positive enumeration of the powers necessary and proper for carrying their other powers into effect, the attempt would have involved a complete digest of laws on every subject to which the Constitution relates; accommodated, too, not only to the existing state of things, but to all the possible changes which futurity may produce; for in every new application of a general power, the particular powers which are the means of attaining the general power must always necessarily vary with that object, and be often properly varied whilst the object remains the same." How these sentiments can be said to be a different contemporaneous exposition must be left to the House to determine.

Mr. B. then begged the indulgence of the House to hear the same gentleman when arguing expressly on that part of the Constitution now under consideration; and then read p. 144, 145, and 146 of the 1st. vol. of the *Federalist*, which are too long to be inserted. He declared that, in his opinion, it was impracticable to put together language in the same length that could more forcibly and pointedly elucidate and prove the construction contended for in support of the bill on the table. There remained yet but two objections, to answer which Mr. B. would detain the House a little longer.

The gentleman from Georgia (Mr. JACKSON) had charged the measure with establishing the commercial interests to the great injury of the agricultural. If this was true he never would agree to it, for he considered the agricultural interests of America as its great and sure dependence. Mr. B. confessed that so far from seeing these measures in this point of light, he could not bring his mind to comprehend how the commercial interests of a country could be promoted without greatly advancing the interests of agriculture. Will the farmer have any temptation to labor, if the surplus of what he raises beyond his domestic consumption is to

perish in his barn for want of a market? Can a market be obtained without the merchant? If commerce flourishes, the merchants increase, and of course the demand for the produce of the land; but if the mercantile interests fail, there is none to export the surplus produced by agriculture. If the farmer should undertake to export his own produce, he could not give his whole attention to his affairs; or if the merchant should attempt to raise the grain he wanted, he could not carry on his merchandise. The one interest depends on the other; a separation destroys both.

But the incapacity of the bank to extend its influence to the extremes of the Union has been argued from the gentleman never having seen a note of the present Bank of North America in Georgia; he therefore concludes that bank has never been of any service to her agricultural interests. Mr. B. said that he drew very different conclusions from this fact. He supposed that by means of the bank the traders with Georgia had been enabled to send her the precious metals, while the bank paper had answered their purposes nearer home where it circulated with undoubted credit. He instanced a case of a Philadelphia merchant, who was possessed of £100 in gold, and £100 credit at the bank; the merchant wanted £100 worth of rice of a Georgia planter, and the like value in flour of a Pennsylvania farmer. When he purchased the one of the Georgian, he could safely pay him the whole in gold, while he found the Pennsylvanian would as readily receive the bank paper for his flour; but had there been no bank, he could have purchased but £50 worth of each, and the Georgian and Pennsylvanian both would have gone without a market for the residue. In short, the whole Union may be likened to the body and limbs; you cannot aid or comfort one but the other must be likewise benefited.

He said it was however difficult and impracticable to show that every measure adopted by the Government should have an effect perfectly equal over so extensive a country as that of the United States; it was sufficient if, upon the whole, the measures of Government, taken all together, produced the desired equality.

The last objection was that by adopting this bill we exposed the measure to be considered and defeated by the Judiciary of the United States, who might adjudge it to be contrary to the Constitution, and therefore void; and not lend their aid to carry it into execution. This, he alleged, gave him no uneasiness. He was so far from controverting this right in the Judiciary, that it was his boast and his confidence. It led him to greater decision on all subjects of a constitutional nature, when he reflected that if, from inattention, want of precision, or any other defect, he should do wrong, that there was a power in the Government which could constitutionally prevent the operation of such a wrong measure from effecting his constituents. He was legislating for a nation, and for thou-

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sands unborn; and it was the glory of the Constitution that there was a remedy even for the failures of the supreme Legislature itself.

Upon the whole, then, he said, that on taking the power in question in every point of view, and giving the Constitution the fullest consideration, under the advantage of having the objections placed in the strongest point of light by the great abilities of the gentlemen in the opposition, he was clearly in favor of the bill; as to its expediency, there could be little doubt on the minds of any gentleman; and unless more conclusive arguments could be adduced to show its unconstitutionality, he should in the end vote for passing the bill.

SATURDAY, February 5.

MESSRS. SEDGWICK, STURGES, and CONTEE, were appointed a committee to bring in a bill further to continue in force an act passed the first session of Congress, to regulate civil processes in the Courts of the United States.

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The House resumed the consideration of the bill for incorporating the Bank of the United States.

The question being on the passage of the bill,

Mr. SMITH observed, that he considered it his duty to offer the reasons which should influence him in giving his vote on this occasion. He had wished amendments to the bill, as some parts of it, he confessed, did not perfectly please him; but his wishes having been overruled, the question now is, whether the bill shall pass? Though he came southward of the Potomac, the principle of the bill met his approbation. It would be a deplorable thing if this Government should enact a law subversive of the Constitution, or that so enlightened a body as the Senate of the United States should, by so great a majority as were in favor of this bill, pass a law so hostile to the liberties of this country, as the opposition to this measure have suggested the Bank system to be; and it would be very extraordinary if an officer of this Government, who has produced a performance explanatory of the Constitution, of such celebrity as to be resorted to as an authority, should be so inconsistent with himself as to propose a law entirely subversive of the principles laid down in his able defence of the Constitution.

He then adverted to the objection drawn from that article of the Constitution, that no preference shall be given to one port over another. He showed that the clause was inserted for a particular purpose, and could not be cited as a rule not to be deviated from, as a preference was and must necessarily be given to one port over another. He produced numerous instances in point, in consequence of various clauses in the revenue laws; general regulations sometimes operate partially, and commercial arrangements, apparently unequal, produce the good of the community at large.

In reference to construing the Constitution,

he observed, that the present moment, when the powers of the Government were assailed from various quarters, he conceived the most improper to contract these powers.

The right to construe the Constitution he argued from the principles advanced by Mr. MADISON, in the debate on the power of removability, and read sundry observations from *Lloyd's Register*, made by that gentleman, corroborative of this sentiment. Those arguments, he conceived, applied very aptly to the present subject.

Matters of a fiscal nature necessarily devolve on the General Government, and he urged that every power resulting from the acknowledged right of Congress to control the finances of this country must be as necessarily implied as in the case of the power of removability.

He then alluded to the expediency of a National Bank. The Secretary gave notice, in his first report, that this plan was in contemplation. Nothing was ever read with greater avidity; and though it is now more than a year since this intimation was given, yet no objections have been offered against it either by the States or by individuals—even the State of North Carolina has not mentioned it. [Here Mr. BLOODWORTH, (if the Editor did not misunderstand him,) informed Mr. SMITH that the report had not been seen by the Legislature of North Carolina.] Mr. SMITH said he was sorry for it—and then proceeded to notice some partial quotations, made by Mr. JACKSON, from *Dr. Smith's Wealth of Nations*, against Bank Systems. He said, he could have wished the gentleman had been more copious in his quotations from that author; if he had, he would have found that that author has fully demonstrated their utility.

He noticed the division of opinions on the subject of a National Bank in the city of Philadelphia. He supposed ideas of personal advantages induced these opposing sentiments. He, however, thought this subject should be taken up altogether on general principles; and even if its immediate influence should not extend to the extremes of the Union, if the establishment promises a general preponderating advantage, local considerations must be considered in a secondary point of view. The principal inquiry is, will the institution facilitate the management of the finances? This, he thought, had been made apparent. This is the opinion of the Secretary of the Treasury, after due and mature consideration of the subject; and he certainly enjoys the best means of forming an opinion; he is at the head of the Fiscal Department, and deservedly enjoys the public confidence. Very little has been offered to disprove his sentiments on this part of the question, and the inexpediency of the measure should be clearly proved before the plan is rejected; for an officer who deservedly enjoys the public confidence is entitled to the support of the Legislature in those plans which are expedient and constitutional.

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Mr. S. mentioned instances in which Congress exercised power by implication, and observed, that this was necessary to the execution of the duties which devolve on the Government by the Constitution. The power to establish a National Bank must reside in Congress, for no individual State can exercise any such power. The right of no particular State is therefore infringed by the institution. It had repeatedly been said, that Philadelphia would derive peculiar advantages from the Bank of the United States, but, he observed, if the present plan should fail, it was a question whether the stockholders of the Bank of North America would not derive greater advantages from the necessity which, in that case, Government would be under of resorting to them for loans. The institution, as before observed, is founded on general principles, and will undoubtedly, in its operations, prove of general utility.

Mr. STONE said, if, upon questions like the present, he had given pain to members he regarded, they might be assured the pain was reciprocal. Let us cherish mutual toleration. We might conceive that each pursued the system which he advocated from the purest motives. We differ in our ideas of Government, and our sense of the sacredness of the written compact. We varied widely in our opinions of the direction of this Government. The great lesson of experiment would show who is right; but we are influenced in our habits of thinking by our local situations, and, perhaps, the distinct interests of the States we represent. He observed, that upon the present occasion, the opinions respecting the Constitution seem to be divided by a geographical line, dividing the Continent. Hence it might be inferred, that other considerations mixed with the question; and it had been insinuated that it was warped by the future seat of Government. But other causes may be assigned for the diversity of sentiment—the people to the Eastward began earliest in favor of liberty. They pursued freedom into anarchy—starting at the precipice of confusion, they are now vibrating far the other way. He said, that all our taxes are paid by the consumers of manufactures; those taxes are all bounties upon home manufactures. The people to the eastward are the manufacturers of this country; it was no wonder that they should endeavor to strengthen the hands of a Government by which they are so peculiarly benefited.

It is a fact, that the greatest part of the Continental debt has travelled eastward of the Potomac. This law is to raise the value of the Continental paper. Here, then, is the strong impulse of immediate interest in favor of the Bank. He took notice of the distinction made by the plan of the bill, between Continental and State paper. The State paper, on account of partial payments of interest, still remained in the respective States. But this could not, by the present system, be subscribed; so that the Southern States were deprived of the ad-

vantage that might have been given to the only paper they have. But if gentlemen charge us with defending the seat of Government, let them remember that this betrays consciousness of an attack. If they believe that this scheme tends to break the faith of the Union pledged to the Potomac, it is no wonder they suppose we oppose it upon that ground. He would not have mentioned this subject, had it not been hinted at. But let the whole of it come forth; let gentlemen consult their own bosoms; let the public decide the truth of his observations. He hoped he should not be suspected of any bias. That so uniform had been his conduct upon all questions, turning upon principles similar to the present, that every member in the House, he believed, had conjectured rightly of the side he would take, before he had uttered a word upon the subject. When implication first raised its head in this House, he started from it as a serpent which was to sting and poison the Constitution. He felt in unison with his country. The fears, the opinions, the jealousies of individuals and of States, had been explained by a gentleman from Virginia (Mr. MADISON.) He should only remark, that all those who opposed the Government dreaded this doctrine; those who advocated it, declared that it could not be resorted to; and all combined in opinion that it ought not to be tolerated. Never did any country more completely unite in any sentiment than America in this, "that Congress ought not to exercise, by implication, powers not granted by the Constitution." And is it not strange? For the admission of this doctrine destroys the principle of your Government at a blow; it at once breaks down every barrier which the Federal Constitution had raised against unlimited legislation. He said, that necessity was the most plausible pretext for breaking the spirit of the social compact, but the people of this country have anticipated that pretext. They have said to the Ministers of this country, "we have given you what we think competent powers, but if experience proves them inadequate, we will enlarge them; but, in the mean time, dare not usurp those which we have reserved."

It is agreed on all hands, that the power to incorporate the subscribers to a banking company, is not expressly granted, and although gentlemen have agreed that it is implied—that it is an incident, that it is a means, for effectuating powers expressly granted, yet they are not agreed as to the particular power to which this is an incident. They admit, that the sweeping clause in the Constitution confers no additional power. But if he understood the gentlemen, several of them were of opinion that all Governments instituted for certain ends draw to them the means of execution as of common right. This doctrine would make ours but a short Constitution. (Here he read the preamble,) and then said—Here is your Constitution! Here is your bill of rights! Do these gentlemen require any thing more respecting the

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powers of Congress, than a description of the ends of Government? And if of right they can carry these into effect, will they regard the means, though they be expressly pointed out? But I would ask if there is any power under Heaven, which could not be exercised within the extensive limits of this preamble?

The Convention might have stopped here; and there was no need, according to the doctrine of the gentleman, to point out any of the means for the ends mentioned in the preamble. That portion of the Constitution which, by all America, has been thought so important, according to their logic, would become a dead letter; but the preamble, in fair construction, is a solemn compact, that the powers granted shall be made use of to the ends thereby specified.

He then reprobated, in pointed terms, the latitude of the principles premised. He said the end of all Government is the public good; and if the means were left to legislation, all written compacts were nugatory. He observed, that the sober discretion of the Legislature, which, in the opinions of gentlemen ought to be paramount, was the very thing intended to be curbed and restrained by our Constitution.

He then declared, that our form of Government not only pointed out the ends of Government, but specified the means of execution. He said, we may make war—this would draw to it the power of raising an army and navy, laying taxes, establishing a judiciary, &c. But the spirit of the Constitution, in this respect, had been well explained by Mr. MADISON, and he should not recapitulate.

He said, a gentleman from South Carolina (Mr. SMITH) had remarked that all our laws proceeded upon the principle of expediency—that we were the judges of that expediency—as soon as we gave it as our opinion that a thing was expedient, it became constitutional. What then remains of your Constitution, except its mode of organization? We may look into it to refresh our memories respecting the times, places, and manner of composing the Government; that, as to the powers of Congress, were he of that gentleman's opinion, he would never look into it again. Gentlemen see the difficulties of their theories, and are obliged to confess that these incidental powers are not easily defined. They rest in the sober discretion of the Legislature.

One gentleman (Mr. AMES) has said, no implication ought to be made against the law of nature, against rights acquired, or against power pre-occupied by the States; that it is easier to restrain than to give competent powers of execution. Now these notions are hostile to the main principle of our Government, which is only a grant of particular portions of power, implying a negative to all others. It has been shown that the ends of Government will include every thing. If gentlemen are allowed to range in their sober discretion for the means, it is plain they have no limits. By the cabalistic word incident, your Constitution is turned

upside down, and instead of being a grant of particular powers, guarded by an implied negative to all others, it is made to imply all powers. But, strange to tell, America forgot to guard it by express negative provisions. Is there any difference in effect between lodging general powers in a Government, and permitting the exercise of them by subtle constructions? He said there was a difference. In the one case the people fairly gave up their liberty, and stood prepared; in the other, they were unexpectedly tricked out of their Constitution.

The preceding remarks showed how dangerous is the doctrine of implication, and upon what small data ingenuity can raise the most dangerous superstructure. He should now take a view of those precedents, in the former and present Congress, which are relied on to justify the present measure.

1st. The Bank of North America. Here he stated the distressful and critical situation of America at the period of its establishment; he remarked, that it was at the time of the declension of the Continental money. He showed that there were no powers in the Confederation to which (even according to the reasoning of the other side) this power could be incidental, but what required the vote of nine States; that the ordinance passed by a vote of seven States, which showed that necessity alone gave birth to that measure. He showed the dissimilarity of the situations of the former and this Congress, and the difference in their powers, and, consequently, in the dangers to be apprehended from the encroachment of either.

2d. The redemption of our prisoners at Algiers. This comes within the power to regulate trade. If, said he, we are not capable of redeeming, by the best means in our power, our citizens, our trade may be entirely ruined; and hence, the law which would be made for their redemption would be necessary and proper. But, by the Constitution, the Executive may make treaties; these may be general, or for a particular object, and the Legislature may effectuate them by grants of money.

3d. We have bought certificates, and not destroyed them. This, they say, is implied from the power of paying the debts.

He asked if, before the purchase, the certificates were debts due from the United States? And demanded, if, by the purchase, they were divested of that quality? In my judgment, when a debt is fairly cancelled, it is as much like a payment as need be.

4th. We had no right, except by implication, to give a salary to the Vice-President. He had voted against the salary, and had been for a *per diem* allowance, because he thought the Vice-President was viewed by the Constitution only as the President of the Senate. But this example fails most palpably, as Congress, in the compensations, are not confined by the Constitution either to a particular sum or mode of payment.

5th. Congress have made corporations, and

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exercised complete legislation in the Western Territory. He said, to answer this case, nothing more was necessary than to read the clause in the Constitution which gives to Congress expressly the power to make all the rules and regulations for them.

It seemed to him as if gentlemen were inverting the order of things, by making powers where there were none, and attempting to prove express grants to be implications.

6th. Our regulations respecting freighters and owners, and between captains and seamen. He had not those regulations correctly in his memory, but he believed them proper and necessary regulations of commerce.

7th. It has been said we have exclusive jurisdiction in places belonging to Congress, and within the ten miles square. We could erect a bank in any of those places; its influence would extend over the Continent; the principle upon which we founded this power could not be confined to a particular time or a spot of land. Gentlemen ridicule the idea that the exercise of a pervading influence and a general principle should be limited by any particular number of years, or be confined within a fort. He said, the power of exclusive legislation in those places was expressly granted, and, under its influence, the Congress might exercise complete and exclusive legislation within those limits; that the power was confined to the places. But if the general powers of this Constitution are to be governed by the same rules of construction, and we are to have no regard to place, it follows that Congress can exercise exclusive legislation over this Continent. He was astonished at this doctrine. It would be equally reasonable to say, that France, because within the limits of her own dominions, and over her own property, she exercised exclusive legislation, that hence she had a right to legislate for the world.

8th. The power of removal of officers by the President alone. He said, it was known he had opposed that doctrine. He left it to be defended by those who had voted for it. But he hoped Mr. SMITH (S. C.) and some other gentlemen, who had opposed it, would review the arguments they had used upon that occasion.

He observed, after taking a view of these precedents on the danger of laying down improper principles in legislation, how eagerly men grasped at the slightest pretexts for exercise of power. He shuddered to think what a broad and commanding position this Bank will form for further encroachments.

A gentleman from Massachusetts (Mr. SEBOWICK) has said, that whenever a power is granted, all the known and usual means of execution are always implied. The idea had been properly examined by Mr. GILES, but he would ask, if incorporating the subscribers to a Bank was the known and usual means of borrowing money, especially when the subscribers were not obliged to loan; or of collecting taxes, when no taxes were levied on the Bank.

But gentlemen tell us, that if we tie up the Constitution too tightly, it will break; if we hamper it, we cannot stir; if we do not admit the doctrine, we cannot legislate at all. And with a kind of triumph, they say that implication is recognised by the Constitution itself in the clause wherein we have power to make all laws, to carry, &c. He said, he was ready to meet the gentlemen upon this ground. This clause was intended to defeat those loose and proud principles of legislation which had been contended for. It was meant to reduce legislation to some rule. In fine, it confined the Legislature to those means that were necessary and proper.

He said, it would not be pretended that it was necessary and proper for the collection of taxes. Indeed, one gentleman (Mr. AMES) had attempted to show that the payments in specie could not be made, if by chance a great quantity of debt suddenly accumulated in a particular place. But it might be remembered, that this necessity, if it arrived, was created by the Legislature, and that would be strange reasoning which broke a good Constitution to mend a bad law. No taxes are to be collected by this bill.

It would not be necessary and proper as a mean of borrowing money, because, first, we do not want to borrow money, and, if we did, this law, though it may be the probable, is not the necessary mean; for if it was the interest of the stockholders, they might, and he believed would, refuse to loan. He said, that the institution might be defended upon more plausible grounds, if the Bank had been taxed; or if a condition to loan money to the public had been part of the plan. Upon what ground, then, do gentlemen stand? They can only say, that they have implied a great and substantive power in Congress, which gives to Government, or to individuals, the influence of fifteen millions of dollars, irrevocably, for twenty years, with a power of making by-laws, &c. because there is a probability that this institution may be convenient and agreeable in the operations of Government. He asked, upon parallel principles, what might Congress not do? He said, that the gentleman from Virginia (Mr. MADISON) pursuing the doctrine into all the forms in which it might appear, had struck upon several cases which were very pointed—an incorporation of manufacturers with exclusive privileges; merchants with the same; a national religion. This, a gentleman (Mr. AMES) has said was unfair and extravagant reasoning; and yet, in five minutes, the gentleman's own reasoning led him to ask, with warmth, if Congress could not join stocks with a company to trade to Nootka? And he condescended to doubt, if the privileges given to such a company might not be exclusive. He saw clearly, himself, that his theory led to the latter conclusion; for if expediency, if convenience, facility, if fears of war, if preparations for events which might never happen, can justify an incorporation upon the present plan, the same suggestions, the same logic, will

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legalize incorporations with exclusive privileges. The deductions of the gentleman from Virginia are sound and right, and cannot be fairly controverted. Congress may then do any thing. Nay, if the principles now advocated are right, it is the duty of the Legislature of the Union to make all laws, not only those that are necessary and proper to carry the powers of the Government into effect, but all laws which are convenient, expedient, and beneficial to the United States. Then where is your Constitution? Are we not now sitting, in our sober discretion, a General Government, without the semblance of restraint? Yes, said he, we have still a Constitution, but where is it to be found? Is it written? No. Is it among the archives? No. Where is it? It is found in the sober discretion of the Legislature—it is registered in the brains of the majority!

He proceeded. I say there is no necessity, there is no occasion, for this Bank. The States will institute Banks which will answer every purpose. But a distrust of the States is shown in every movement of Congress—will not this implant distrust also in the States? Will you gain by this contest? This scheme may give, and I am convinced will give, partial advantages to the States. In the fair administration of our Government, no partial advantages can be given; but, by this bill, a few stockholders may institute Banks in particular States, to their aggrandizement and the oppression of others. This Bank will swallow up the State Banks; it will raise in this country a moneyed interest at the devotion of Government; it may bribe both States and individuals. He said, gentlemen asked who would be offended or hurt by this plan? Have we heard any complaints against it? Have the newspapers reprobated it? These questions had no influence on his mind. He said it was one of those sly and subtle movements which marched silently to its object; the vices of it were at first not palpable or obvious; but when the people saw a distinction of Banks created—when they viewed with astonishment the train of wealth which followed individuals, whose sudden exaltation surprised even the possessors—they would inquire how all this came about? They will then examine into the powers by which these phenomena have arisen, and they will find—they will reprobate the falsehood of the theories of the present day.

He said, that gentlemen had told us of the sudden irruptions of enemies. When those necessities arrive, it is time enough to make use of them to break your Constitution. But, gentlemen say, upon emergencies the Bank will loan money. We differ in opinion. I think when we want it most the Bank will be most unable and unwilling to lend. If we are in prosperity, we can borrow money almost any where; but in adversity, stockholders will avoid us with as much caution as any other capitalists.

But a gentleman (Mr. AMES) tells us not to be alarmed, the Bank will not eat up liberty—he

said he was not afraid. He was not under any apprehensions that all the little influence that Congress possessed would destroy the great spirit of American liberty. The body of the people would laugh at and ridicule any attempt to enslave them; but a conduct which had that tendency might arouse alarming passions. He said, there existed at this moment ill-blood in the United States, which to quiet he would readily agree to enter into a foreign war. America with us, we might defy the world. There was but one people he was afraid of offending. This was America. He was not afraid of foreign enemies, but the resentment of our own country is always a subject of serious apprehension. He observed, that there were other parts of this important and diffusive subject which he might have touched, but he had fatigued himself and the House.

MR. SMITH (S. C.) said, as he had been greatly misunderstood by the gentleman last up, he wished to explain the position he had laid down. He had never been so absurd as to contend, as the gentleman had stated, that whatever the Legislature thought expedient, was therefore constitutional. He had only argued that, in cases where the question was, whether a law was necessary and proper to carry a given power into effect, the members of the Legislature had no other guide but their own judgment, from which alone they were to determine whether the measure proposed was necessary and proper to carry the powers vested in Congress into full effect. If, in such cases, it appeared to them, on solemn deliberation, that the measure was not prohibited by any part of the Constitution, was not a violation of the rights of any State or individual, and was peculiarly necessary and proper to carry into operation certain essential powers of the Government, it was then not only justifiable on the part of Congress, but it was even their duty to adopt such measure. That, nevertheless, it was still within the province of the Judiciary to annul the law, if it should be by them deemed not to result by fair construction from the powers vested by the Constitution.

MONDAY, February 7.

USEFUL ARTS.

MR. WHITE, from the committee appointed for that purpose, reported a bill to amend an act, entitled "An act to promote the progress of the useful arts," which was read the first time.

On motion of MR. HEISTER, the memorial of a number of public creditors, who are holders of loan-office certificates received for loans of paper money, was referred to a select committee of five; MESSRS. SHERMAN, GERRY, HEISTER, BENSON, and GALE.

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The House resumed the consideration of the bill for incorporating the Bank of the United States.

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The question being on the passage of the bill, Mr. GILES.—In the course of discussing the present important question, it has been several times insinuated that local motives, and not a candid and patriotic investigation of the subject upon its merits, have given rise to that difference of opinion which has been heretofore manifested in this House. I shall not examine the truth of this observation, but merely remark, that the causes which may have produced the arguments against the proposed measure, whatever they be, can neither add to, nor take from, their merit or influence; and, of course, the insinuations might have been spared without injury to the subject; but so far as the observation may have been intended to apply to myself, I can truly say, that if a bias were to influence my conduct, it would rather direct it to favor, than to oppose the proposed measure. This bias would arise from two causes: the one from the respect which I entertain for the judgments of the majority who advocate the measure; the other of a more serious nature. I have observed with regret a radical difference of opinion between gentlemen from the Eastern and Southern States, upon great Governmental questions, and have been led to conclude, that the operation of that cause alone might cast ominous conjecture on the promised success of this much valued Government. Mutual concessions appear to be necessary to obviate this effect, and I have always been pleased in manifesting my disposition to make advances; but, from the most careful view of the arguments in favor of the proposed measure, considered under this impression, they do not seem to me sufficient to establish the propriety of its adoption; and I am therefore impelled, by the joint influence of duty and opinion, to be one in the opposition.

A gentleman from Massachusetts (Mr. AMES) prefaced his observations with this remark, that it is easier to point out defects and raise objections to any proposed system, than to defend it from objections, and prove its affirmative propriety, and warned the House against the effects of arguments of this nature, urged in opposition to the measures now under consideration. I agree with the gentleman in this idea in general, but we should reflect that in the present case the address of the arguments in favor of the measure is made to one of the strongest affections of the human mind, the love of dominion; and hence we may justly conclude, that they will be received and relished with their full and unabated influence. This reflection appears to me to be at least a counterpoise to that remark.

The advocates of this bill have been called on, and I conceive with propriety, to show its constitutionality and expediency, both of which have been doubted by those of the opposition. In support of the first position, a multitude of arguments have been adduced, all of which may be reducible to the following heads: such as are drawn from the Constitution itself; from the incidentality of this authority to the mere

creation and existence of Government; from the expediency of the measure itself; and from precedents of Congress; to which may be added a similar exercise of authority by Congress, under the former Confederation.

Observations arising from the Constitution itself, were of two kinds. The right of exercising this authority is either expressed in the Constitution, or deducible from it by necessary implication. One gentleman only, from Massachusetts, (Mr. SEDGWICK,) has ventured to assert, that, discarding the doctrine of implication, he could show that the right to exercise the authority contended for was expressly contained in the Constitution. This, I presume, must have been a mistake in language, because the difference between an express and an implied authority appears to me to consist in this—in the one case, the natural import of the words used in granting the authority would of themselves convey a complete idea to the mind of the authority granted, without the aid of argument or deduction; in the other, to convey a complete idea to the mind, the aid of argument and deduction is found necessary to the usual import of the words used; and that gentleman proceeded with a labored argument to prove, that the authority was expressly granted, which would have been totally useless, if his assertion had been just.

[Mr. SEDGWICK rose to explain; he never conceived the authority granted by the express words of the Constitution, but absolutely by necessary implication from different parts of it.]

I shall not contend as to the assertion, but shall proceed to consider the arguments in favor of the measure upon the doctrine of implication; which, indeed, are those only which deserve consideration.

In doing this, I shall consider the authority contended for to apply to that of granting charters to corporations in general, for I do not recollect any circumstance, and I believe none has been pretended, which could vary this case from the general exercise of that authority. To establish the affirmative of this proposition, arguments have been drawn from several parts of the Constitution; the context has been resorted to. "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," &c. It has been remarked, that here the ends for which this Government was established are clearly pointed out; the means to produce the ends are left to the choice of the Legislature, and that the incorporation of a Bank is one necessary mean to produce these general ends. It may be observed, in reply, that the context contemplates every general object of Government whatever; and if this reasoning were to be conclusive, every object of Government would be within the authority of Congress, and the detail of the Constitution would have been wholly unnecessary, further than to design-

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nate the several branches of the Government which were to be entrusted with this unlimited, discretionary choice of means, to produce these specified ends. The same reasoning would apply as forcibly to every clause of the Constitution, restraining the authority of Congress to the present case, or to any one in which the Constitution is silent. The only candid construction arising from the context appears to me to be this: it is designed, and it is the known office of every member to point out the great objects proposed to be answered by the subsequent regulations of which the Constitution is composed. These regulations contain the means by which these objects are presumed to be best answered. These means consist in a proper distribution of all governmental rights between the Government of the United States and the several State Governments, and in fixing limits to the exercise of all authorities granted to the Government of the United States. The context, therefore, gives no authority whatever, but only contemplates the ends for which certain authorities are subsequently given. Arguments drawn from this source appear to me to be ineffectual in themselves, and the reliance of gentlemen upon them indicates a suspicion and distrust of such as may be drawn from other parts of the Constitution. The advocates of the bill have turned away from this context, and have applied to the body of the Constitution in search of arguments. They have fixed upon the following clauses, to all or some one of which they assert the authority contended for is clearly incidental: the right to lay and collect taxes, &c. &c.—to provide for the common defence and general welfare, &c.—to borrow money, &c.—to regulate commerce with foreign nations, &c. The bill contemplates neither the laying nor collecting taxes, and, of course, it cannot be included in that clause; indeed, it is not pretended, by the bill itself, to be at all necessary to produce either of those ends; the furthest the idea is carried in the bill is, that it will tend to give a facility to the collection. The terms "common defence and general welfare," contain no grant of any specific authority, and can relate to such only as are particularly enumerated and specified. "To borrow money." Gentlemen have relied much upon this clause; their reasoning is, that a right to incorporate a Bank is incidental to that of borrowing money, because it creates the ability to lend, which is necessary to effectuate the right to borrow. I am at a loss to discover one single relation between the right to borrow, and the right to create the ability to lend, which is necessary to exist between principle and incident. It appears to me, that the incidental authority is paramount to the principal, for the right of creating the ability to lend, is greater than that of borrowing from a previously existing ability. I should, therefore, rather conclude, that the right to borrow, if there be a connexion at all, would be incidental to the right to grant charters of incorporation, than the reverse

of that proposition, which is the doctrine contended for by the advocates of the measure. The same reasoning which would establish a right to create the ability to lend, would apply more strongly to enforce the will after the ability is created; because the creator would have a claim of gratitude at least upon the created ability, which, if withheld, perhaps with justice might be insisted on. "To regulate commerce with foreign nations." This is by no means a satisfactory ground for the assumption of this authority; for if it be deemed a commercial regulation, there is a clause in the Constitution which would absolutely inhibit its exercise. I allude to that clause which provides that no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; and it seems to be admitted, that one principal effect to be produced by the operation of this measure, will be to give a decided commercial preference to this port over every other in the United States.

Gentlemen finding it difficult to show that necessary relation and intimate connexion between the authority contended for, and any one of the specified authorities before mentioned, which would be essential to the establishment of their doctrine, have referred to what has been generally called the sweeping clause, and have made deductions from the terms "necessary" and "proper;" they have observed, that certain specified authorities being granted, all others necessary to their execution follow without any particular specification. This observation may in general be true, but its fallacy here consists in its application to this particular case. It cannot be applied until the exercise of this authority be proved to be necessarily connected with some one of the previously enumerated authorities; and here the argument, as well as the fact, fails. The authority contended for seems to me to be a distinct substantive branch of legislation, and perhaps paramount to any one of the previously enumerated authorities, and should, therefore, not be usurped as an incidental subaltern authority.

I am confirmed in this opinion, from the indistinct confused conceptions of gentlemen who advocate the measure. They rely upon the incidentality of this authority to some one of those particularly specified, and yet have applied it as an incident to several distinct, unconnected, subjects of legislation; and then, distrusting their own conclusions, or as if the inquiry would be too troublesome or minute, they leave this ground, and assert that it is incidental to the result of the whole combined specified authorities. Gentlemen must, therefore, view this right through different optics, at different times; or, what I rather believe to be the fact, they have no distinct view of it at all, the right having no existence.

A gentleman from Massachusetts (Mr. SEDGWICK) finding the usual import of the terms used in the Constitution to be rather unfavorable to the doctrines advanced by him, has fa-

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vored us with a new exposition of the word "necessary." He says that necessary, as applicable to a mean to produce an end, should be construed so as to produce the greatest possible quantum of public utility. I have been taught to conceive that the true exposition of a necessary mean to produce a given end was that mean without which the end could not be produced.

The gentleman's reasoning, however, if pursued, will be found to teem with dangerous effects, and would justify the assumption of any given authority whatever. Terms are to be so construed as to produce the greatest degree of public utility. Congress are to be the judges of this degree of utility. This utility, when decided on, will be the ground of constitutionality. Hence, any measure may be proved constitutional, which Congress may judge to be useful. These deductions would suborn the Constitution itself, and blot out the great distinguishing characteristic of the free Constitutions of America, as compared with the despotic Governments of Europe, which consist in having the boundaries of governmental authority clearly marked out and ascertained. The exclusive jurisdiction over ten miles square has been adverted to by one gentleman (Mr. AMES) as a specified authority, to which the one contended for is suggested to be incidental; he has reasoned in this manner: Congress possess jurisdiction over ten miles square, &c., Congress may therefore establish a Bank within the ten miles square, and, as principle is not applicable to place, Congress may exercise the same authority any where else. This seems to me to be an ingenious improvement upon sophistical deduction; the gentleman, however, should have reflected, that the ground upon which he built the right to exercise this authority, was that of exclusive jurisdiction, and to extend the principle it is necessary to extend the right of exclusive jurisdiction; without this, the basis of his argument fails, and the superstructure, however beautified, must follow; for the principle, if at all deducible from that source, is expressly confined to place, and cannot operate beyond it.

I shall now consider the second resource, whence the constitutional right of exercising the proposed authority is derived—its incidentality to the mere creation and existence of Government. It has been observed, that in all Governments there are certain rights tacitly granted, and certain other rights retained; that it is impossible, in framing a Constitution, to enumerate every minute governmental right, and that such an attempt would be chimerical and vain. And hence the incidentality of this authority to the mere existence of Government is inferred. These observations seem to me to apply to a Government growing out of a State of society, and not to a Government composed of chartered rights from previously existing Governments, or the people of those Governments. I have been taught to consider this as a federal,

not as a consolidated Government, and am not prepared or disposed at present to relinquish that idea. A gentleman from New York (Mr. LAWRENCE) has remarked, that the Government is consolidated *quoad* the powers granted, and of course *quoad* their incidents; but he should first have shown that the authority contended for is one of those granted, or incidental to some one of them, before the application can be made. The observation can have no tendency to establish either of those positions. What effect would this doctrine, if admitted, have upon the State Governments? And how would it be relished by them? Their dignity and consequence will not only be prostrated by it but their very existence radically subverted. A third resource of deducing this constitutional authority is resorted to—the expediency of the proposed measure itself. I presume the great object of the Constitution was to distribute all governmental rights between the several State Governments and the Government of the United States; the expediency, therefore, of the exercise of all constitutional rights, as they relate to State or General Governments, is properly contemplated and decided by the Constitution, and not by the Governments among which the distribution is made. A gentleman from South Carolina (Mr. SMITH) has said, that the expediency and constitutionality of the proposed measure cannot be considered separately, because the constitutionality grows out of the expediency. This is but candidly unveiling the subject of that sophistical mask which has been ingeniously thrown over it by some gentlemen; for all the arguments adduced in favor of the measure, from whatever source they arise; if pursued, will be found to rush into the great one of expediency, to bear down all constitutional provisions, and to end themselves in the unlimited ocean of despotism.

Several gentlemen have said, that this authority may be safely exercised, since it does not interfere with the rights of States or individuals. I think this assertion not very correct; if the States be constitutionally entitled to the exercise of this authority, it is an intrusion on their rights to do an act which would eventually destroy or impede the freest exercise of that authority; for it is totally immaterial whether the effect be produced by the operation of this, or by an inhibition in express terms. The States may not only incorporate banks, but may of right prohibit the circulation of bank paper within their respective limits; the act, therefore, if it be intended to have an effectual operation, will certainly infringe this right, or exist at the mercy of the State Governments. This reasoning, however, places the subject in another point of view a little singular. It contemplates the authority contended for as vacant ground, and justifies the tenure by the mere title of occupancy. In almost all the remarks in favor of the measure, gentlemen seem to have forgotten the peculiar nature of this Government. It being composed of mere charter-

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ed authorities, all authority not contained within that charter would, from the nature of the grant, have been retained to the granting party; and I will venture to assert, that this opinion was the *sine qua non* of the adoption and existence of this Government; but if this opinion had been doubtful, Congress themselves have made an express declaration in favor of this construction to the proposed amendments to the Constitution. Gentlemen have inferred a constitutional right to exercise the authority contended for from a fourth resource—the former usages and habits of Congress. In affirmance of this argument, several acts of Congress have been referred to—the power of removal from office, the government of the Western Territory, the cession from North Carolina, the purchase of West Point, &c. I shall not examine into the propriety of these several acts, though I conceive it would not be difficult to show, that they differ materially, upon constitutional grounds, from the one now proposed. I shall only remark, that, if Congress have heretofore been in the usage and habit of disregarding and violating the Constitution, it is high time that that habit and usage be corrected. I hope and trust that the people of the United States will not tamely see the only security of their rights and liberties invaded and violated, but also see one violation of it with impunity boldly urged as an argument to justify another.

An instance of a similar exercise of authority by the Congress, which existed under the former Confederation, has been mentioned in favor of its exercise by the present Congress. The argument has been, that as the powers of the present Congress are greater than those of the former Congress, and the former were competent to the exercise of this right, the present must be more so. It is to be remarked, that that act was the child of necessity, and that Congress doubted its legitimacy, and the act itself was never confirmed by a judicial decision; and it should be also remarked, that the same Congress did not pretend to possess the right to punish those who should counterfeit the paper of the bank, and recommended it to the States to confirm the act which they had done, and to pass laws for the purpose of punishing those who should counterfeit the paper; and it is a little remarkable that this circumstance, which is one of the most essential to the existence and operation of this act, is withheld from our view. But as I think arguments drawn from this source wholly foreign to the subject, I shall make no other remark upon them. I shall now suggest a few observations respecting the expediency of the proposed measure. In doing this I shall not say any thing as to the utility of banks in general, nor as to the effects of the banks of England, Scotland, Holland, &c. I possess not sufficient practical or theoretical knowledge to justify the inquiry; I shall only point out a few circumstances which are peculiarly attached to the Government we are now administering, which

might vary the application of general rules, drawn from Governments of a different nature, and which possess the unquestioned right of granting charters of incorporation.

In the first place, the right of exercising that authority by the Government is at least problematical, it is no where granted in express terms; the Legislature, therefore, can have no competent security against a judicial decision but a dependant or a corrupt court. I presume that a law to punish with death those who counterfeit the paper emitted by the bank will be consequent upon the existence of this act. Hence a judicial decision will probably be had of the most serious and awful nature; the life of an individual at stake on the one hand, an improvident act of the Government on the other. A distrust arising from this cause will for ever keep the bank in jeopardy, and the very first trial of this nature will probably subject the bank to a run which it will be unable to withstand; for all stockholders will require the greatest possible security for their money, and a distrust of such an institution will be its destruction. This observation seems to me to have peculiar force, from the great proportion of paper to that of gold and silver, upon which the bank is proposed to be founded. The peculiar relation between the General and State Governments will naturally produce a contest for governmental rights, until long experience shall settle the precise boundaries between them. The present measure appears to me to be an unprovoked advance in this scramble for authority, and a mere experiment how far we may proceed without involving the opposition of the State Governments. It should be remarked that this Government is in its childhood; it is therefore unfitted for such bold and manly enterprises, and policy would dictate that it should wait at least until it may have become more matured or invigorated. Two modes of administering this Government present themselves; the one with mildness and moderation, by keeping within the known boundaries of the Constitution, the other by the creation and operation of fiscal mechanism; the first will ensure us the affections of the people, the only natural and substantial basis of Republican Governments; the other will arise and exist in oppression and injustice, will increase the previously existing jealousies of the people, and must be ultimately discarded, or bring about a radical change in the nature of our Government. Having suggested these observations upon the measure in general, I shall now proceed to point out a few objections to the details of the bill. I think the authority given to the bank to purchase and hold lands objectionable; in the first place, I doubt the constitutional right of Congress to invest such an authority; the lands within the United States are holden of the individual States, and not of the United States; and that tenure appears to me to be the true ground upon which the right to exercise that authority grows. I believe it

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is admitted, that although Congress may naturalize a foreigner they cannot authorize him to purchase lands; and I think the case at least as strong, when they first create an artificial person, and then invest the authority; besides, if we have any reference to the experience of other countries, we shall find it dangerous to allow incorporated bodies to hold lands at all. The exercise of that right produced great oppression in England, and nothing but the masterly activity of an absolute Prince could apply a competent remedy. A gentleman from Massachusetts (Mr. SEDGWICK) has denied that the bank is invested with this right. It is true it is confined to the mode of purchasing by mortgage, but that is the most effectual mode of purchasing, and the most ruinous to the landholder.

I will merely mention one other objection without a comment—the authority given to make laws not contrary to law or its own Constitution; but the most objectionable clause is that which limits its duration, and pledges the faith of the United States that no other bank shall be established in the mean time, however dangerous and offensive the present measure might prove in its operation, and whatever may be the utility and advantage in any other scheme of banking which experience may suggest. Such a stipulation cannot be justified but from the most pointed necessity, and from the maturest deliberation. When I search for the necessity of this measure, it escapes me; it is not pretended in the bill itself; the chief stimulus which I can discover to the existence of this measure is to give artificial impulse to the value of stock. This is not a sufficient justification; the subject has not been sufficiently considered, and I therefore hope it may be postponed to some future session of Congress; many evils may be avoided by such a conduct, none can result from it.

Mr. GERRY said, he should principally confine himself to the objections of the gentleman first up from Virginia, (Mr. MADISON,) not from a disrespect to the observations of other gentlemen in the opposition, but because he considered their arguments as grafts on the original stock of those urged by the gentleman alluded to, and if the trunk fell, its appendages must fall also.

The objects of the bill were to render the fiscal administration successful, to give facility to loans on sudden emergencies, and to benefit trade and industry in general; and that these were objects of high importance had not been denied, neither had it been asserted that they ought not, if possible, to be attained.

It is objected, however, that the mode proposed by the bill is unconstitutional, and the bill itself defective.

The mode proposed is a National Bank; to establish which he thought Congress were as competent as either House were to adjourn from day to day.

It is said that Congress have no power relat-

ing to this subject, except what is contained in the clauses for laying and collecting taxes, imposts, excises, &c.; for borrowing money, and for making all laws necessary and proper for carrying these powers into effect; and that these do not authorize the establishment of a National Bank.

To ascertain this, the gentleman from Virginia proposes a candid interpretation of the Constitution, which we shall agree to, and he offers to assist us with his rules of interpretation, for his good intentions in doing which we give him full credit; but as he acknowledges that he has been long decided against the authority of Congress to establish a bank, and is therefore prejudiced against the measure; as his rules, being made for the occasion, are the result of his interpretation, and not his interpretation of the rules; as they are not sanctioned by law exposition, or approved by experienced judges of the law, they cannot be considered as a criterion for regulating the judgment of the House, but may, if admitted, prove an *ignis fatuus* that may lead to destruction.

We wish not, however, by establishing our own rules of interpretation, to enjoy the privilege which is denied to the gentleman, but will meet him on fair ground, by applying rules which have the sanction mentioned; and as the learned *Judge Blackstone* has laid down such, it is presumed the gentleman from Virginia will not contend for a preference, or refuse to be tried by this standard.

The Judge observes, "That the fairest and most rational method to interpret the will of the Legislator is by exploring his intentions at the time when the law was made by signs the most natural and probable; and these signs are either the words, the context, the subject-matter, the effect and consequence, or the spirit and reason of the law." With respect to words, the Judge observes, that "they are generally understood in their usual and most ordinary signification, not so much regarding the grammar as their general and popular use."

The gentlemen on different sides of the question do not disagree with respect to the meaning of the terms *taxes, duties, imposts, excises, &c.* or of *borrowing money*, but of the word *necessary*: and the question is, what is the general and popular meaning of this term? Perhaps the answer to the question will be truly this, that in a general and popular one the word does not admit of a definite meaning, but that this varies according to the subject and circumstances. With respect to the subject for instance, if the people, speaking of a garrison besieged by a superior force, and without provisions, or a prospect of relief, should say it was under the necessity of surrendering, they would mean a physical necessity, for troops cannot subsist long without provisions; but if speaking of a debtor, the people should say, he was frightened by his creditor, and then reduced to the necessity of paying his debts, they would mean a legal, which is very different from a

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physical necessity; for although the debtor, by refusing payment, might be confined, he would be allowed subsistence, and the necessity he was under to pay his debts would not extend beyond his confinement. Again, if it should be said that a client is under the necessity of giving to his lawyer more than legal fees, the general popular meaning of necessity would, in this instance, be very different from that in the other; the necessity would neither be physical nor legal, but artificial, or, if I may be allowed the expression, a long-robe necessity.

The meaning of the word "*necessary*" varies also according to circumstances; for although Congress have power to levy and collect taxes, duties, &c., to borrow money, and to determine the time, quantum, mode, and every regulation necessary and proper for supplying the Treasury, yet the people would apply a different meaning to the word necessary under different circumstances. For instance, without a sufficiency of precious metals for a medium, laws creating an artificial medium would be generally thought necessary for carrying into effect the power to levy and collect taxes; but if there was a sufficiency of such metals, those laws would not generally be thought necessary. Again, if specie was scarce, and the credit of the Government low, collateral measures would be by the people thought necessary for obtaining public loans; but not so, if the case was reversed. Or, if part of the States should be invaded and overrun by an enemy, it would be thought necessary to levy on the rest heavy taxes, and collect them in a short period, and to take stock, grain, and other articles from the citizens without their consent, for the common defence; but in a time of peace and safety, such measures would be supposed unnecessary. Instances may be multiplied in other respects; but it is conceived that these are sufficient to show that the popular and general meaning of the word "*necessary*" varies according to the subject and circumstances.

The second rule of interpretation relates to the *context*, and the Judge conceives that "if words are still dubious, we may establish their meaning by the context; thus the preamble is often called in to help the construction of an act of Parliament." The Constitution, in the present case, is the great law of the people, who are themselves the sovereign Legislature; and the preamble is in these words: "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

These are the objects for which the Constitution was established, and in administering it we should always keep them in view. And here it is remarkable, that although the common defence and general welfare are held up in the preamble among the primary objects of atten-

tion, they are again mentioned in the eighth section of the first article, whereby we are enjoined in levying taxes, duties, &c. particularly to regard the common defence and general welfare; indeed common sense dictates the measure; for the security of our property, families, and liberty—of every thing dear to us, depends on our ability to defend them. The means, therefore, for attaining this object we ought not to omit a year, month, or even a day, if we could avoid it; and we are never provided for defence unless prepared for sudden emergencies. Should Government be surprised in this case, it would be as dishonorable as for a general to be surprised in a state of warfare, and the event to the community may be much more fatal. If provision then for sudden emergencies is indispensable, it must be evident that it will depend in a great measure on the ability of the Government to command at all times, for this purpose, a sufficient sum of money, which is justly denominated the sinews of war: and how is this to be effected? by emissions of bills of credit? During the Revolution, bills of credit, it must be acknowledged, have done wonders; they have, in conflict with the banks, Treasury, and public credit of Great Britain, risen superior to them all, and have since died a natural death. We have honored them with a funeral pile; we now bid peace to their manes, and devoutly hope that bills of credit will for ever be extinct in the United States. Are we to depend, then, on taxes for commanding money in cases of urgent necessity? These, as has been shown by other gentlemen, will be too slow in their operations, unless, indeed, we should levy a tax for drawing into and locking up in the Treasury three or four millions of dollars; a law which would be universally considered as unnecessary and improper.

By loans, and loans only, can provision be made for sudden emergencies; but if loans should be made previously to an emergency, the people would be unnecessarily burthened by the interest thereof, and most of the other evils would ensue that would arise from previous taxes; and if they were to be made at an emergency, without previous arrangements, of whom are we to borrow? Of individuals? These cannot be depended on, as has been fully proved by our own experience at the commencement of the Revolution. Are we to apply to the banks already established in the States for loans? These can no more be depended upon than individuals; for stockholders having not more attachment to Government than other citizens, would, in cases of public danger, attend to the preservation of their property by other means than loaning it to Government. And moreover, the united capitals of all the banks existing in the Union would be insufficient for Government, for they do not amount to a million and a half of dollars, and only a part in this could, in any case, be reasonably expected on loan.

Are we to apply to foreign banks or indivi-

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duals? These, as has been shown, are too remote; and if not, we have not been able, without the assistance of an ally, to obtain foreign loans during the war, and perhaps the power in whose assistance we may rely would be hostile to us. Such dependance, then, as has been stated, would necessarily leave us in a deplorable state; and it must be evident that a previous arrangement to aid loans in cases of sudden emergency is necessary and proper in the general and popular use of the term, inasmuch as any other measure that Congress can adopt would be inadequate to the purpose of common defence; and what previous arrangement can we make so proper as that of a National Bank? If gentlemen in the opposition know of any, let them produce it, and let the merits of it be investigated; for it is unreasonable to propose a rejection of this plan without producing a better. The plan proposed by the Secretary of the Treasury, which is now the subject of discussion, does honor, like all his other measures, to his head and heart; it will be mutually beneficial to the stockholders and to Government, and consequently so to the people. The stockholders by this plan will be deeply interested in supporting Government; because three quarters of their capital, consisting of funded certificates, depend on the existence of Government, which therefore is the prop of their capital, the main pillar that supports the bank. Again, the credit of Government, which is immaterial to the other banks, is essential to the National Bank, for the annual interest of three quarters of its capital, which must form a great share of its profits, will depend altogether on the credit of Government, and produce, on the part of the stockholders, the strongest attachment to it. On the other hand, it will be the interest of Government to support the bank, as well on account of the benefits which the public will generally derive from the institution, and the profits arising from the shares of Government in the stock which will be hereafter noticed, as of the supplies of money which it will be for the interest of the bank to furnish in cases of urgent necessity. Whenever these exist, Congress may lay a tax for supplying the Treasury, and anticipate it with certainty by means of the National Bank. It being then our duty to provide for the common defence in cases of emergency, the provision must evidently be made by taxes, loans, or by arrangements for obtaining the latter on the earliest notice; and previous taxes and loans being oppressive, improper, and unnecessary, the arrangements for aiding loans become indispensable, and a bank consequently necessary and constitutional.

The third rule of the Judge, relative to the "subject-matter" of a law, it is unnecessary to apply, because the members agree in their ideas relative to the meaning of the terms taxes, duties, loans, &c.

The fourth rule, which relates to "effects and consequences," is important; and here the learned Judge observes that "as to effects and

consequences, the rule is, where the words bear none, or a very absurd signification, if literally understood, we must a little deviate from the received sense of them." In the present case, the gentlemen in the opposition generally, as well as the gentleman first up from Virginia, give the whole clause by which Congress are authorized "to make all laws necessary and proper," &c. no meaning whatever; for they say, the former Congress had the same power under the Confederation without this clause as the present Congress have with it. The *Federalist* is quoted on this occasion, but although the author of it discovered great ingenuity, this part of his performance I consider as a political heresy. His doctrine, indeed, was calculated to lull the consciences of those who differed in opinion with him at that time; and having accomplished his object, he is probably desirous that it may die with the opposition itself. The rule in this case says, that where the words bear no signification, we must deviate a little; and as this deviation cannot be made by giving the words less than no meaning, it must be made by a more liberal construction than is given by gentlemen in the opposition. Thus their artillery is turned on themselves, for their own interpretation is an argument against itself.

The last mentioned rule relates to the spirit and reason of the law, and the Judge is of opinion "that the most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the reason and spirit of it, or the cause which moved the Legislature to enact it." The causes which produced the Constitution were an imperfect Union, want of public and private justice, internal commotions, a defenceless community, neglect of the public welfare, and danger to our liberties. These are known to be the causes not only by the preamble of the Constitution but also from our own knowledge of the history of the times that preceded the establishment of it. If these weighty causes produced the Constitution, and it not only gives power for removing them, but also authorizes Congress to make all laws necessary and proper for carrying these powers into effect, shall we listen to assertions that these words have no meaning, and that this Constitution has not more energy than the old? Shall we thus unnerve the Government, leave the Union, as it was under the Confederation, defenceless against a banditti of Creek Indians, and thus relinquish the protection of its citizens? Or shall we, by a candid and liberal construction of the powers expressed in the Constitution, promote the great and important objects thereof? Each member must determine for himself; I shall without hesitation choose the latter, and leave the people and States to determine whether or not I am pursuing their true interest. If it is inquired where we are to draw the line of a liberal construction, I will also inquire where the line of restriction is to be drawn?

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The interpretation of the Constitution, like the prerogative of a sovereign, may be abused; but from hence the disuse of either cannot be inferred. In the exercise of prerogative the minister is responsible for his advice to his sovereign, and the members of either House are responsible to their constituents for their conduct in construing the Constitution. We act at our peril; if our conduct is directed to the attainment of the great objects of Government it will be approved, and not otherwise; but this cannot operate as a reason to prevent our discharging the trusts reposed in us.

Let us now compare the different modes of reasoning on this subject, and determine which is right, for both cannot be.

The gentleman from Virginia (Mr. MADISON) has urged the dangerous tendency of a liberal construction; but which is most dangerous, a liberal or a destructive interpretation? The liberty we have taken in interpreting the Constitution, we conceive to be necessary, and it cannot be denied to be useful in attaining the objects of it; but whilst he denies us this liberty, he grants to himself a right to annul part, and a very important part of the Constitution. The same principle that will authorize a destruction of part will authorize the destruction of the whole of the Constitution; and if gentlemen have a right to make such rules, they have an equal right to make others for enlarging the powers of the Constitution, and indeed of forming a despotism. Thus, if we take the gentleman for our pilot, we shall be wrecked on the reef which he cautions us to avoid.

The gentleman has referred us to the last article of the amendments proposed to the Constitution by Congress, which provides that the powers not delegated to Congress, or prohibited to the States, shall rest in them or the people; and the question is, what powers are delegated? Does the gentleman conceive that such only are delegated as are expressed? If so, he must admit that our whole code of laws is unconstitutional. This he disavows, and yields to the necessity of interpretation, which, by a fair and candid application of established rules of construction to the Constitution, authorizes, as has been shown, the measure under consideration.

The usage of Congress has also been referred to; and if we look at their acts under the existing Constitution, we shall find they are generally the result of a liberal construction. I will mention but two. The first relates to the establishment of the Executive Departments, and gives to the President the power of removing officers. As the Constitution is silent on this subject, the power mentioned, by the gentleman's own reasoning, is vested in the States or the people; he, however, contended for an assumption of the power, and when assumed, urged that it should be vested in the President, although, like the power of appointment, it was by a respectable minority in both Houses conceived that it should have been vested in the

President and Senate. His rule of interpretation then was therefore more liberal than it is now. In the other case, Congress determined by law, with the sanction of the President, when and where they should hold their next session, although the Constitution provides that this power should rest solely in the two Houses. The gentleman also advocated this measure, and yet appears to be apprehensive of the consequences that may result from a construction of the Constitution which admits of a National Bank. But from which of these measures is danger to be apprehended? The only danger from our interpretation would be the exercise by Congress of a general power to form corporations; but the dangers resulting from the gentleman's interpretations, in the cases alluded to, are very different; for what may we not apprehend from the precedent of having assumed a power on which the Constitution was silent, and from having annexed it to the Supreme Executive? If we have this right in one instance, we may extend it to others, and make him a despot. And here I think it necessary to declare, that such is my confidence in the wisdom, integrity, and justice of the Chief Magistrate, as that I should be at ease, if my life, liberty, and property were at his disposal; but this is a trust which I am not authorized to make for my constituents; and as his successors in office will possess equal powers, but may not possess equal virtues, caution with respect to them is necessary. Again, what may be the result of the precedent relating to the session of Congress? If we had a right by law to determine where the next Congress should hold their session, one Congress may oblige another to sit in Kentucky, or in the intended State Yazoo, under the protection of a Choctaw chief, or His Excellency Governor Tallan. It must therefore be evident that the usage of Congress in both instances is against the gentleman, and that the dangers from the precedent of establishing a bank are comparatively small to those resulting from the other measures referred to.

The gentleman from Virginia has endeavored to support his interpretation of the Constitution by the sense of the Federal Convention; but how is this to be obtained? By applying proper rules of interpretation? If so, the sense of the Convention is in favor of the bill; or are we to depend on the memory of the gentleman for a history of their debates, and from thence to collect their sense? This would be improper, because the memories of different gentlemen would probably vary, as they had already done, with respect to those facts; and if not, the opinions of the individual members who debated are not to be considered as the opinions of the Convention. Indeed, if they were, no motion was made in that Convention, and therefore none could be rejected for establishing a National Bank; and the measure which the gentleman has referred to was a proposition merely to enable Congress to erect commercial

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corporations, which was, and always ought to be, negatived.

The gentleman's arguments respecting the sense of the State Conventions have as little force as those relating to the Federal Convention. The debates of the State Conventions, as published by the short-hand writers, were generally partial and mutilated; in this, if the publications are to be relied on, the arguments were all on one side of the question, for there is not in the record which is said to contain the Pennsylvania debates a word against the ratification of the Constitution; although we all know that arguments were warmly urged on both sides. The gentleman has quoted the opinions, as recorded in the debates of this State and North Carolina, of two of our learned judges; but the speech of one member is not to be considered as expressing the sense of a Convention; and if it was, we have no record which can be depended on of such speeches. Indeed, had even this been the case, the Union was at that time divided into two great parties, one of which feared the loss of the Union if the Constitution was not ratified unconditionally, and the other the loss of our liberties, if it was. The object on either side was so important as perhaps to induce the parties to depart from candor, and to call in the aid of art, flattery, professions of friendship, promises of office, and even good cheer; and when these failed, the *federal Bull* was published, denouncing political death and destruction to antifederal infidels. Under such circumstances, the opinions of great men ought not to be considered as authorities, and in many instances could not be recognised by themselves.

Mr. G. then observing that the sense of the States respecting a bank would be best ascertained by their legislative acts, showed, from the journals of Congress, that when restrained by the Confederation from exercising any powers but what were expressly delegated, Congress had, without any authority, established a bank whose capital might extend to ten millions of dollars; and had not only pledged the faith of the Union not to erect any other, but had recommended it to the States to prohibit any State establishment of the kind, and had also determined that the bank bills should be receivable in the taxes and duties of every State. That the States did not remonstrate against, or tacitly acquiesce in, but actually supported the measures of Congress relative to the bank, whilst the war continued, and after the peace. That this was the strongest evidence the States could give that they thought the measure salutary, and had no objection to it on the ground of its being constitutional. He then urged that if the States and the people at large had no objection to a bank in that case, they certainly could not in this; and inquired whether there was any evidence of their disapprobation of such an institution in the debates of their Conventions or propositions for amendments? To this he answered in the negative, and urged

that whilst the Conventions were silent on this subject, and had no objections to such a measure, several of them had proposed amendments to the Constitution for restraining Congress from establishing commercial corporations; which evinced their disapprobation of such institutions, and admitted at the same time, in some degree, the power of Congress, under the existing Constitution, to form them.

Mr. G. then showed that as a monopoly had been urged as an objection to the bill, no such consequence could result from it; for the bill does not restrain State or private banks, or even individuals, from negotiations of a similar nature with those permitted to the stockholders; nor does it restrain the States from forming similar corporations. This plan has not a feature of monopoly, and the gentlemen who oppose it contend for a bank, which, according to its original institution, was founded in monopoly.

He then answered the argument urged against the authority of Congress to enable corporations to hold lands, when they had no power themselves of purchasing and holding land; and showed that although Congress are restrained from purchasing lands, (except in certain cases,) and from exercising over the same exclusive legislation, yet that they may hold lands obtained by execution, conquest, and by other means as well as by those clauses of the Constitution which relate to lands now belonging to the Union; and that Congress had often invested others with powers which they themselves could not exercise.

He then noticed the argument, that, by a law of Virginia, notes payable to the bearer, or order, could not circulate in that State; and observed that this law could not be supposed to extend to bank notes; and if it did, it would be null and void, because the Constitution of the Union and laws, made in pursuance thereof, were paramount to the laws and Constitutions of the several States. Having considered the arguments against the constitutionality of the bill, he entered into the policy and utility of the measure.

TUESDAY, February 8.

Mr. TUCKER, from the committee appointed for the purpose, presented a bill to alter the time of the next meeting of Congress, which was twice read, and ordered to be engrossed.

A message from the Senate informed the House that they have passed the bill making appropriations for the support of the Government for the year 1791.

BANK OF THE UNITED STATES.

The House resumed the consideration of the bill for incorporating the Bank of the United States.

The question still being on the passage of the bill,

Mr. VINING apologized for rising to offer his sentiments on this subject, which had been al-

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ready so ably discussed; but considering the nature of the objections as arising from constitutional principles, it had acquired an importance which would justify his troubling the House with some remarks.

He began by noticing the leading argument of Mr. MADISON respecting the sense of the Continental Convention on the power proposed to be exercised by Congress in this bill. He showed that the opinion of the gentleman, in this instance, was, if not singular, different from that of his contemporaries; at least a similar objection had not been started by those gentlemen of the Senate, who had been members of the Convention; but granting that the opinion of the gentleman from Virginia had been the full sense of the members of the Convention, their opinion at that day, he observed, is not a sufficient authority by which for Congress at the present time to construe the Constitution.

Mr. V., in explaining the powers proposed by the bill to be given to the corporation of the Bank, adverted to the particular power of "making rules and regulations not contrary to law." He showed that this term law, means the common law; and alluded to the inquiry of Mr. MADISON, as to what law was intended by this clause, who, in answering his own question, said, "that if the laws of the United States were intended, the power contemplated was dangerous and unconstitutional, as those laws were very few in number."

Mr. V. observed, that the restriction contended for by the gentleman as the result of his objection would annihilate the most essential rights and privileges of the citizens of the United States. He then observed, a corporation is nothing more than constituting a body with powers to effect certain objects in a combined capacity, which an individual may do in his individual capacity, agreeable to the usage and customs of common law.

Adverting to the act by which the United States became a free and independent nation, he said, from that declaration, solemnly recognised at home and abroad, they derive all the powers appertaining to a nation thus circumstanced, and consequently the power under consideration. He traced the origin of corporations to the time of Numa, the first of which was for agricultural purposes; they were afterwards extended to other objects; and from that day to this, all civilized and independent nations have been in the practice of creating them, and what do they amount to but this—enabling a number of persons, in a combined capacity, to do that to a more certain effect that an individual may do; but subject to the control of common law, in all its regulations and transactions.

On the doctrine of construction, as applied to the Constitution, he observed, that on some occasions the Constitution is like the sensitive plant, which shrinks from the smallest touch; on others, it is like the sturdy oak which braves the force of thunder. He referred to the act

containing the power of removability; in which the utmost latitude of construing the Constitution was contended for and adopted; and, said he, the funding system cannot be defended on any other principle than of implication.

He then inquired, of what right does this incorporation deprive a single citizen? And can an act possibly meet the disapprobation of a single person which does not infringe his rights, and which puts money into his pocket? I think not. He insisted that the power of Congress alone was equal to establishing a bank competent to creating a currency which shall pervade all parts of the Union; the paper of the State Banks cannot circulate beyond the bounds of the particular States.

From the restrictions to the Government contended for by the opposers of the bill, he compared the Constitution to a horse finely proportioned in every respect to the eye, and elegantly caparisoned, but deficient in one, and the most essential requisite, that of ability to carry the owner to his journey's end; he had rather, he said, mount the old Confederation, and drag on in the old way, than be amused with the appearance of a Government so essentially defective.

Mr. MADISON observed, that the present is a question which ought to be conducted with moderation and candor; and, therefore, there is no occasion to have recourse to those tragic representations which have been adduced. Warmth and passion should be excluded from the discussion of a subject which ought to depend on the cool dictates of reason for its decision.

Adverting to the observation of Mr. SMITH, of South Carolina, "that it would be a deplorable thing for the Senate of the United States to have fallen on a decision which violates the Constitution," he inquired, What does the reasoning of the gentleman tend to show but this, that from respect to the Senate this House ought to sanction their decisions? And from hence it will follow, that the President of the United States ought, out of respect to both, to sanction their joint proceedings; but he could remind the gentleman of his holding different sentiments on another occasion.

Mr. M. then enlarged on the exact balance or equipoise contemplated by the Constitution, to be observed and maintained between the several branches of Government; and showed, that except this idea was preserved, the advantages of different independent branches would be lost, and their separate deliberations and determinations be entirely useless.

In describing a corporation he observed, that the powers proposed to be given are such as do not exist antecedent to the existence of the corporation; these powers are very extensive in their nature, and to which a principle of perpetuity may be annexed.

He waived a reply to Mr. VINING's observations on the common law, [in which that gentleman had been lengthy and minute, in order to

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invalidate Mr. MADISON's objections to the power proposed to be given to the Bank, to make rules and regulations, not contrary to law.] Mr. M. said, the question would involve a very lengthy discussion; and other objects more intimately connected with the subject remained to be considered.

The power of granting charters, he observed, is a great and important power, and ought not to be exercised unless we find ourselves expressly authorized to grant them. Here he dilated on the great and extensive influence that incorporated societies had on public affairs in Europe. They are powerful machines which have always been found competent to effect objects on principles in a great measure independent of the people.

He argued against the influence of the precedent to be established by the bill; for though it has been said, that the charter is to be granted only for a term of years, yet he contended, that granting the powers on any principle is granting them in *perpetuum*; and assuming this right on the part of the Government involves the assumption of every power whatever.

Noticing the arguments in favor of the bill, he said, it had been observed, that "Government necessarily possesses every power." However true this idea may be in the theory, he denied that it applied to the Government of the United States.

Here he read the restrictive clause in the Constitution; and then observed, that he saw no pass over this limit.

The preamble to the Constitution, said he, has produced a new mine of power; but this is the first instance he had heard of, in which the preamble has been adduced for such a purpose. In his opinion, the preamble only states the objects of the Confederation, and the subsequent clauses designate the express powers by which those objects are to be obtained; and a mean is proposed through which to acquire those that may be found still requisite, more fully to effect the purposes of the Confederation.

It is said, "there is a field of legislation yet unexplored." He had often heard this language; but he confessed he did not understand it. Is there a single blade of grass—Is there any property in existence in the United States, which is not subject of legislation, either of the particular States, or of the United States? He contended that the exercise of this power, on the part of the United States, involves, to all intents and purposes, every power which an individual State may exercise. On this principle, he denied the right of Congress to make use of a bank to facilitate the collection of taxes. He did not, however, admit the idea, that the institution would conduce to that object. The bank notes are to be equal to gold and silver, and consequently will be as difficult to obtain as the specie. By means of the objects of trade on which gold and silver are employed, there will be an influx of those articles; but paper being substituted, will fill those

channels which would otherwise be occupied by the precious metals. This, experience shows is the uniform effect of such a substitution.

The right of Congress to regulate trade is adduced as an argument in favor of this of creating a corporation; but what has this bill to do with trade? Would any plain man suppose that this bill had any thing to do with trade?

He noticed the observation respecting the utility of banks to aid the Government with loans. He denied the necessity of the institution to aid the Government in this respect. Great Britain, he observed, did not depend on such institutions; she borrows from various sources.

"Banks, it is said, are necessary to pay the interest of the public debt." Then they ought to be established in the places where that interest is paid; but can any man say, that the bank notes will circulate at par in Georgia. From the example in Scotland, we know that they cannot be made equal to specie, remote from the place where they can be immediately converted into coin; they must depreciate in case of a demand for specie; and if there is no moral certainty that the interest can be paid by these bank bills, will the Government be justified in depriving itself of the power of establishing banks in different parts of the Union?

We reason, and often with advantage, from British models; but in the present instance there is a great dissimilarity of circumstances. The bank notes of Great Britain do not circulate universally. To make the circumstances parallel, it ought to have been assumed as a fact, that banks are established in various parts of Great Britain, at which the interest of the national debt is paid; but the fact is, it is only paid in one place.

The clause of the Constitution which has been so often recurred to, and which empowers Congress to dispose of its property, he supposed referred only to the property left at the conclusion of the war, and has no reference to the moneyed property of the United States.

The clause which empowers Congress to pass all laws necessary, &c. has been brought forward repeatedly by the advocates of the bill; he noticed the several constructions of this clause which had been offered. The conclusion which he drew from the commentary of the gentleman from Massachusetts, (Mr. GERRY,) was, that Congress may do what they please; and recurring to the opinion of that gentleman in 1787, he said the powers of the Constitution were then dark, inexplicable, and dangerous; but now, perhaps, as the result of experience, they are clear and luminous!

The constructions of the Constitution, he asserted, which have been maintained on this occasion, go to the subversion of every power whatever in the several States; but we are told, for our comfort, that the Judges will rectify our mistakes. How are the Judges to determine in the case; are they to be guided in their decisions by the rules of expediency?

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It has been asked, that if those minute powers of the Constitution were thought to be necessary, is it supposable that the great and important power on the table was not intended to be given? Mr. M. interpreted this circumstance in a quite different way, viz: if it was thought necessary to specify in the Constitution those minute powers, it would follow that more important powers would have been explicitly granted, had they been contemplated.

The Western Territory business, he observed, was a case *sui generis*, and therefore cannot be cited with propriety. West Point, so often mentioned, he said, was purchased by the United States, pursuant to law, and the consent of the State of New York is supposed, if it has not been expressly granted; but, on any occasion, does it follow that one violation of the Constitution is to be justified by another?

The permanent residence bill, he conceived, was entirely irrelevant to the subject; but he conceived it might be justified on truly constitutional principles.

The act vesting in the President of the United States the power of removability has been quoted; he recapitulated, in a few words, his reasons for being in favor of that bill.

The Bank of North America he had opposed, as he considered the institution as a violation of the Confederation. The State of Massachusetts, he recollected, voted with him on that occasion. The Bank of North America was, however, the child of necessity; as soon as the war was over, it ceased to operate as to Continental purposes. But, asked he, are precedents in war to justify violations of private and State rights in a time of peace? And did the United States pass laws to punish the counterfeiting the notes of that bank? They did not, being convinced of the invalidity of any such law; the bank, therefore, took shelter under the authority of the State.

The energetic administration of this Government is said to be connected with this institution. Mr. M. here stated the principles on which he conceived this Government ought to be administered; and added, other gentlemen may have had other ideas on the subject, and may have consented to the ratification of the Constitution on different principles and expectations; but he considered the enlightened opinion and affection of the people the only solid basis for the support of this Government.

Mr. M. then stated his objections to the several parts of the bill. The first article he objected to was the duration. A period of twenty years was, to this country, as a period of a century in the history of other countries; there was no calculating for events which might take place. He urged the ill policy of granting so long a term, from the experience of the Government in respect to some treaties, which, though found inconvenient, could not now be altered.

The different classes of the public creditors, he observed, were not all put on an equal footing by this bill; but in the bill for the disposal

of the Western Territory this had been thought essential. The holders of six per cent. securities will derive undue advantages. Creditors at a distance, and the holders of three per cent. securities, ought to be considered, as the public good is most essentially promoted by an equal attention to the interest of all.

I admit, said he, that the Government ought to consider itself as the trustee of the public on this occasion, and therefore should avail itself of the best disposition of the public property.

In this view of the subject, he objected to the bill, as the public, he thought, ought to derive greater advantages from the institution than those proposed. In case of a universal circulation of the notes of the proposed bank, the profits will be so great that the Government ought to receive a very considerable sum for granting the charter.

There are other defects in the bill, which render it proper and necessary, in my opinion, that it should undergo a revision and amendment before it passes into a law. The power vested by the bill in the Executive to borrow of the bank, he thought was objectionable; and the right to establish subordinate banks ought not to be delegated to any set of men under Heaven.

The public opinion has been mentioned. If the appeal to the public opinion is suggested with sincerity, we ought to let our constituents have an opportunity to form an opinion on the subject.

He concluded by saying, he should move for the previous question.

The previous question, "Shall the main question now be put?" being determined in the affirmative,

MR. GERRY rose to reply to MR. MADISON; but the House discovering an impatience to have the main question put, after a few remarks, he waived any further observations.

The yeas and nays were then taken as follows, on the passage of the bill:

YEAS.—Messrs. AMES, Benson, Boudinot, Bourne, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, P. Muhlenberg, Partridge, Rensselaer, Schureman, Scott, Sedgwick, Seney, Sevier, Sherman, Sylvester, Sinickson, Smith, of Maryland, Smith, of South Carolina, Steele, Sturges, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—39.

NAYS.—Messrs. ASHE, Baldwin, Bloodworth, Brown, Burke, Carroll, Contee, Gale, Grout, Giles, Jackson, Lee, Madison, Matthews, Moore, Parker, Stone, Tucker, White, and Williamson.—20.

WEDNESDAY, February 9.

MR. HUNTINGTON, from the committee appointed for that purpose, reported a bill, for increasing the penalties contained in an act for the encouragement of learning, which was twice read and committed.

FEB. 12, 1791.]

Proceedings.

[H. OF R.]

VERMONT.

A message from the President of the United State, informing the House that he had received documents expressing the consent of the Legislatures of New York and of the Territory of Vermont, that the said Territory be admitted as a distinct member of the Union.

Ordered, That this message, and the documents accompanying it, be referred to Messrs. LAWRENCE, BOUDINOT, and CARROLL.

PROCESS IN COURTS.

Mr. SEDGWICK, from the committee appointed for that purpose, reported a bill to continue in force, for a limited time, the act regulating processes in the Federal Courts; which was twice read and committed.

BANK OF THE UNITED STATES.

On motion of Mr. SMITH, of South Carolina, a committee of three was appointed to prepare and bring in a bill supplementary to an act for incorporating the subscribers to the Bank of the United States.

Messrs. SMITH, of South Carolina, WILLIAMSON, and STONE, are the said committee.

TREASURY DEPARTMENT.

Mr. BOUDINOT gave notice, that to-morrow he should move, that a committee be appointed to bring in a bill supplementary to an act for establishing the Treasury Department.

THURSDAY, February 10.

NEXT MEETING OF CONGRESS.

The bill to fix the time of meeting for the next Congress was read the third time, and, on motion, laid on the table.

ENCOURAGEMENT OF LEARNING.

The bill to increase the penalties contained in an act, entitled "An act for the encouragement of learning," was read a second time, and referred to a Committee of the whole House on Monday next.

PROCESS IN COURTS.

The bill to continue the act, regulating processes in the Courts of the United States, was read a second time, and ordered to be engrossed for a third reading.

Mr. BOUDINOT's motion of yesterday was taken up, and a committee consisting of Messrs. BOUDINOT, FITZSIMONS, and AMES, was appointed to prepare and bring in a bill, supplementary to the act, establishing the Treasury Department.

On motion, a committee, consisting of Messrs. BOURNE, SHERMAN, and THATCHER, was appointed to consider and report what alteration may be proper in the act, imposing duties on imports and tonnage, in respect to the Rix-dollar of Denmark, rated therein at one hundred cents.

DEBT DUE TO FOREIGN OFFICERS.

The House then resolved itself into Committee of the whole, Mr. BOUDINOT in the chair,

and took into consideration the bill authorizing the President of the United States to cause the debt due to foreign officers to be paid and discharged. The bill being gone through with, the committee rose, and reported the same without any amendment. The bill was agreed to by the House, and ordered to be engrossed for a third reading.

LAND OFFICES.

The House again resolved itself into a Committee of the whole, Mr. BOUDINOT in the chair, and took into consideration the bill establishing offices for granting lands within the territory of the United States. The committee agreed to sundry amendments—then rose, reported progress, and asked leave to sit again.

Mr. SMITH, from the committee appointed for that purpose, reported a bill supplementary to an act for incorporating the subscribers to the Bank of the United States; which was read twice and committed.

FRIDAY, February 11.

SUNDRY BILLS PASSED.

The engrossed bill, to continue in force, for a limited time, an act to regulate process in the Courts of the United States;

The bill authorizing the President of the United States to cause the debt due to foreign officers to be paid and discharged: And

The bill to alter the time of the meeting of the next session of Congress (to meet on the first day of November next) were severally read the third time, and passed.

COMPENSATION TO CLERKS, &c.

Mr. SEDGWICK, from the committee appointed for that purpose, presented a bill providing compensation for Clerks, Marshals, and Jurors; which was twice read and committed.

WAR DEPARTMENT.

On motion, Messrs. FITZSIMONS, PARKER, and GILMAN, were appointed a committee to report whether any, and what, further provision is necessary to secure the due accounting of the moneys expended in the Department of War.

LAND OFFICES.

The House again resolved itself into Committee of the whole on the bill to establish offices for the purpose of granting lands within the Territories of the United States, Mr. BOUDINOT in the chair. After some time, the committee rose, and reported several amendments to the House, which were read, and ordered to lie on the table.

Business of a private nature occurring, the galleries were cleared and closed.

SATURDAY, February 12.

Sundry petitions were presented, and referred.

Mr. SHERMAN, from the committee to whom was referred the memorial of the public creditors holding loan office certificates for money

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of the Whole, and the President reported the bill to the House accordingly.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined, by unanimous consent, in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the election of sheriffs, in the Indiana Territory;" also, the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen;' in which bills they desire the concurrence of the Senate. They have also passed the bill, entitled "An act to incorporate the subscribers to the Farmers' Bank of Alexandria," with amendments, in which they ask the concurrence of the Senate; the bill, entitled "An act to incorporate the Bank of Potomac," with an amendment, in which they ask the concurrence of the Senate; the bill, entitled "An act to incorporate the Bank of Washington," with amendments, in which they ask the concurrence of the Senate; also, the bill, entitled "An act to incorporate the Bank of Georgetown," with amendments, in which they ask the concurrence of the Senate. The House of Representatives concur in all the amendments of the Senate to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," except the second, to which they do not agree.

The Senate proceeded to consider the amendment to the last mentioned bill disagreed to by the House of Representatives; and on motion, by Mr. BAYARD, the further consideration thereof was postponed until to-morrow.

The two last bills brought up for concurrence were read, and passed to the second reading.

Mr. CURTIS, from the committee, reported the bill in addition to an act, entitled "An act to amend the judicial system of the United States," correctly engrossed; and the bill was read the third time by unanimous consent.

On the question, Shall this bill pass? it was determined in the affirmative—yeas 23, nays 2, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Campbell, Champlin, Clay, Condit, Crawford, Dana, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Horsey, Leib, Lloyd, Pickering, Smith of New York, Taylor, Turner, and Whiteside.

NAYS—Messrs. Reed and Worthington.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act in addition to an act, entitled 'An act to amend the judicial system of the United States.'"

Mr. PICKERING, from the committee to whom was recommitted the bill to enable the Georgetown Bridge Company to levy money for the object of its incorporation, reported it amended.

Mr. CRAWFORD, from the committee to whom was recommitted the bill to authorize the payment of certain certificates, credits, and pensions,

and for other purposes, asked leave to report a new bill; which was read and passed to the second reading.

The PRESIDENT communicated a letter from the Governor of the State of Ohio, enclosing a resolution of that Legislature, approving the amendment to the Constitution of the United States respecting titles of nobility; which were read.

Ordered, That they be transmitted to the office of the Secretary for the Department of State.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of the Treasury, complying with their resolution of the 7th instant.

JAMES MADISON.

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The Message and report were read and ordered to be printed for the use of the Senate.

BANK OF THE UNITED STATES.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, one thousand seven hundred and ninety-one.

Mr. ANDERSON said that having been a member of the committee who reported the bill before the Senate, and not feeling himself at liberty to oppose the introduction of the report, yet, thinking it might be advisable to try the principle before they proceeded to discuss the details, he should move to strike out the first section of the bill. He would barely observe that, was this not a question which was generally understood, on which not only every member of this House, but every citizen of the United States had made up his mind, he should feel himself bound to offer reasons in support of the motion; but, inasmuch as it was a question which every gentleman had doubtless decided in his own mind, he felt unwilling to take up any more of the attention of the Senate, especially so late in the session, when there was so much business of importance before them, which required to be acted on.

Mr. CRAWFORD said this was a way of disposing of business which struck him as somewhat astonishing. A bill was proposed to the Senate to continue in operation an institution of twenty years standing, the good effects of which had been universally experienced, whose influence on the public prosperity was admitted by all; and, without assigning any reason why it should not be continued, they were told that the public sentiment had decided the question, and every gentleman must have made up his mind. He appealed to the gentleman who made the motion, whether this was a fair and magnanimous mode of procedure. How was it possible for the friends of this bill to meet objections never made? To foresee the grounds on which gentlemen would have made up their minds? Surely, when a question of this magnitude was to be decided, it ought to be expected that some

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reasons should be offered why the bill should be rejected. Mr. C. said he hoped if the honorable gentleman from Tennessee chose to veil himself and argument from discussion, on the ground that he had made up his mind, that some gentleman would condescend to give reasons in favor of the motion.

Mr. SMITH, of Maryland, said there was certainly nothing novel in the course taken by the gentleman from Tennessee. The gentleman from Georgia could not be ignorant that some of the State Legislatures had taken the subject up. It, therefore, became the duty, with all respect to his friend from Georgia, of the introducer of the bill to give some reason to induce the Senate to give their votes for a renewal of the charter.

Mr. ANDERSON said that he had deemed it strictly proper and parliamentary to make the motion which he had offered to the House. He deemed it incumbent on those who meant to support this bill to assign the reasons why the section should not be struck out. To his mind, Mr. A. said, this system was infinitely more injurious than beneficial; it created a kind of fictitious wealth in the community; destroyed in a degree the firm principles of our political institutions; and, if we went on with it for twenty years more, we should be at least fifty years older, he would not say in corruption, but in the want of the strict political virtue which, if the bank had never have existed, we might have maintained. This opinion was a sufficient objection, without saying anything of the unconstitutionality of the thing, which to him had always been a paramount objection.

Mr. CRAWFORD said that the gentlemen from Tennessee and Maryland had misconceived what he had said. He had not complained that the motion was made; nothing like it. He knew that such a course was sometimes pursued. But it was the first time he ever knew such a motion to be made without a discussion of the details, without a detailed statement of the reasons for opposing such and such provisions. He must be permitted to state that such a course was not usual in this or any other body, as that a chairman should be called upon to state reasons which induced a committee to report any provision, when a motion was made which went to put an end to any discussion of the detail. Gentlemen assumed the affirmative side of the question; they were about to defeat the bill—ought they not to assign their reasons? What a situation am I placed in, said Mr. C. How is it possible I can foresee all the objections to the bill? And if perchance I should foresee them and defeat

form the Senate of the reasons which induced them to report a bill. I was not on the committee, said he. There were but five on it; and consequently there are twenty-nine of us who cannot tell what induced that gentleman to report the bill which has produced this agitation among us, and which some of the States have declared hostile to the Constitution. I was so certain that the gentleman would give his view of the subject, that I did not come prepared to enter into the question. I did expect to hear something from that gentleman which I or some other gentleman would have thought it our duty to give an answer to.

Mr. CRAWFORD said that he should proceed, though reluctantly, to explain the reasons of the committee for reporting the bill, which is now under consideration. After the most minute examination of the Constitution, the majority of that committee were decidedly of opinion that the Congress of the United States were clearly invested with power to pass such a bill. The object of the Constitution was two-fold: 1st, the delegation of certain general powers, of a national nature, to the Government of the United States; and 2d, the limitation or restriction of the State sovereignties. Upon the most thorough examination of this instrument, I am induced to believe, that many of the various constructions given to it are the result of a belief that it is absolutely perfect. It has become so extremely fashionable to eulogize this Constitution, whether the object of the eulogist is the extension or contraction of the powers of the Government, that whenever its eulogium is pronounced, I feel an involuntary apprehension of mischief. Upon the faith of this imputed perfection, it has been declared to be inconsistent with the entire spirit and character of this instrument, to suppose that after it has given a general power it should afterwards delegate a specific power fairly comprehended within the general power. A rational analysis of the Constitution will refute in the most demonstrative manner this idea of its perfection. This analysis may excite unpleasant sensations; it may assail honest prejudices; for there can be no doubt that honest prejudices frequently exist, and are many times perfectly innocent. But when these prejudices tend to destroy even the object of their affection, it is essentially necessary that they should be eradicated. In the present case, if there be any who, under the conviction that the Constitution is perfect, are disposed to give it a construction that will render it wholly imbecile, the public welfare requires that the veil should be rent, and that its

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regulate commerce with foreign nations, and among the several States, and with the Indian tribes; to establish post offices and post roads. This selection contains five grants of general power. Under the power to coin money it is conceived that Congress would have a right to provide for the punishment of counterfeiting the money after it was coined, and that this power is fairly incidental to, and comprehended in, the general power. The power to raise armies and provide and maintain a navy comprehends, beyond the possibility of doubt, the right to make rules for the government and regulation of the land and naval forces; and yet in these three cases, the Constitution, after making the grant of general power, delegates specifically the powers which are fairly comprehended within the general power. If this, however, should be denied, the construction which has been uniformly given to the remaining powers which have been selected, will establish the fact beyond the power of contradiction. Under the power to regulate commerce, Congress has exercised the power of erecting light-houses, as incidental to that power, and fairly comprehended within it. Under the power to establish post offices, and post roads, Congress has provided for the punishment of offences against the Post Office Department. If the Congress can exercise an incidental power not granted in one case, it can in all cases of a similar kind. But it is said, that the enumeration of certain powers excludes all other powers not enumerated. This is true so far as original substantive grants of power are concerned, but it is not true when applied to express grants of power, which are strictly incidental to some original and substantive grant of power. If it were true in relation to them, Congress could not pass a law to punish offences against the Post Office Establishment, because the Constitution has expressly given the power to punish offences against the current coin, and as it has given the power to punish offences committed against that grant of general power, and has withheld it in relation to the power to establish post offices and post roads. Congress cannot, according to this rule of construction, so warmly contended for, pass any law to provide for the punishment of such offences. The power to make rules for the regulation and government of the land and naval forces, I have shown to be strictly incidental to the power to raise armies, and provide and maintain navies; but, according to this rule of construction, all incidental powers are excluded except the few which are enumerated, which would exclude from all claim to constitutionality, nearly

the organization of Congress; defines its powers; prescribes limitations upon the powers previously granted; and sets metes and bounds to the authority of the State Governments. The second article provides for the organization of the Executive Department, and defines its power and duty. The 3d article defines the tenure by which the persons in whom the judicial power may be vested shall hold their offices, and prescribes the extent of their power and jurisdiction. These three articles provide for the three great departments of Government called into existence by the Constitution, but some other provisions just then occur, which ought to have been included in one or the other of the preceding articles, and these provisions are incorporated and compose the 4th article. The 1st section of it declares, that "full faith and credit shall be given in each State, to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof." In the second section it declares, that a person, charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime. A similar provision is contained in the same section, relative to fugitives who are bound to labor, by the laws of any State. In the first case which has been selected, express authority has been given to Congress, to prescribe the manner in which the records, &c., should be proved, and also the effect thereof, but in the other two, no authority is given to Congress, and yet the bare inspection of the three cases will prove that the interference of Congress is less necessary in the first than in the two remaining cases. A record must always be proved by itself, because it is the highest evidence of which the case admits. The effect of a record ought to depend upon the laws of the State of which it is a record, and, therefore, the power to prescribe the effect of a record was wholly unnecessary, and has been so held by Congress—no law having been passed to prescribe the effect of a record. In the second case there seems to be some apparent reason for passing a law to ascertain the officer upon whom the demand is to be made; what evidence of the identity of the person demanded and of the guilt of the party charged must be produced before the obligation to deliver shall be complete. The same apparent reason exists for the passage of a law rela-

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Mr. President, it is contended by those who are opposed to the passage of this bill, that Congress can exercise no power by implication, and yet it is admitted, nay, even asserted, that Congress would have power to pass all laws necessary to carry the Constitution into effect, whether it had given or withheld the power which is contained in the following paragraph of the 8th section of the 1st article: "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof." If this part of the Constitution really confers no power, it at least, according to this opinion, strips it of that attribute of perfection which has by these gentlemen been ascribed to it. But, sir, this is not the fact. It does confer power of the most substantial and salutary nature. Let us, sir, take a view of the Constitution upon the supposition that no power is vested in the Government by this clause, and see how the exclusion of power by implication can be reconciled to the most important acts of the Government. The Constitution has expressly given Congress power "to constitute tribunals inferior to the Supreme Court," but it has nowhere expressly given the power to constitute a supreme court. In the 3d article it is said, "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish." The discretion, which is here given to Congress, is confined to the inferior courts, which it may from time to time ordain and establish, and not to the Supreme Court. In the discussion which took place upon the bill to repeal the judicial system of the United States in the year 1802, this distinction is strongly insisted upon by the advocates for the repeal. The Supreme Court was said to be the creature of the Constitution, and, therefore, intangible, but that Congress, possessing a discretionary power to create or not to create inferior tribunals, had the same discretionary power to abolish them whenever it was expedient. But if even the discretionary power here vested does extend to the Supreme Court, yet the power of Congress to establish that court must rest upon implication, and upon implication alone. Under the authority to establish tribunals inferior to the Supreme Court, the power to establish a supreme court would, according to my ideas, be vested in Congress by implication. And, sir, it is only vested by implication, even if the declaration, that Congress shall have power to pass all

the department and to carry into effect the powers given to or vested in that department, are very different things.

The power to create the Supreme Court cannot be expressly granted in the power to pass all laws necessary and proper to carry into effect the powers vested in that court, but must, as I have endeavored to prove, be derived from implication. Let me explain my understanding of a power which exists by implication, by an example which will be comprehended by all who hear me. In a devise, an estate is granted to A, after the death of B, and no express disposition is made of the estate during the life of A; in that case A is said to have an estate for life, by implication, in the property so devised. So when the Constitution gives the right to create tribunals inferior to the Supreme Court, the right to create the Supreme is vested in Congress by implication. Shall we after this be told that Congress cannot Constitutionally exercise any right by implication? By the exercise of a right derived only from implication, Congress has organized a Supreme Court, and then, as incidental to power, existing only by implication, it has passed laws to punish offences against the law by which the court has been created and organized. Sir, the right of the Government to accept of the District of Columbia, exists only by implication. The right of the Government to purchase or accept of places for the erection of forts, magazines, arsenals, and dockyards, exists only by implication, and yet no man in the nation, so far as my knowledge extends, has complained of the exercise of those implied powers, as an unconstitutional usurpation of power. The right to purchase or accept of places for the erection of light-houses, as well as the right to erect and support light-houses, must be derived by implication alone, if any such right exists. The clause in the Constitution which gives Congress the power "to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," certainly gives no express power to accept or purchase any of the places, destined for the uses therein specified. The only power expressly given in this clause is that of exercising exclusive legislation in such places; the right to accept or purchase must be derived by impli-

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murmur or complaint—that it has not even been questioned, I shall have accomplished everything which it will be incumbent on me to prove, to justify the passage of the bill upon your table. The power to lay and collect taxes, duties, imposts and excises, together with the power to pass all laws which may be necessary and proper for carrying into effect the foregoing powers, when tested by the same rule of construction which has been applied to other parts of the Constitution, fairly invests Congress with the power to create a bank. Under the power to regulate commerce, Congress exercises the right of building and supporting light-houses. What do we understand by regulating commerce? Where do you expect to find regulations of commerce? Will any man look for them anywhere else than in your treaties with foreign nations, and in your statutes regulating your custom-houses and custom-house officers? What are the reasons for vesting Congress with the right to regulate commerce with foreign nations, and among the several States? The commerce of a nation is a matter of the greatest importance in all civilized countries. It depends upon compacts with other nations, and whether they are beneficial or prejudicial depends not so much on the reciprocal interest of nations as upon their capacity to defend their rights and redress their wrongs. It was therefore highly important that the right to regulate commerce with foreign nations should be vested in the National Government. If the regulation of commerce among the several States had been left with the States, a multiplicity of conflicting regulations would have been the consequence. Endless collisions would have been created, and that harmony and good neighborhood, so essential between the members of a Federal Republic, would have been wholly unattainable. The best interest of the community, therefore, imperiously required, that this power should be delegated to Congress. Not so of light-houses. The interest of the States would have induced them to erect light-houses, where they were necessary, and when erected they would have been equally beneficial to their own vessels, the vessels of their sister States, and of foreign nations. The performance of this duty could have been most safely confided to the States. They were better informed of the situations in which they ought to be erected than Congress could possibly be, and could enforce the execution of such regulations as might be necessary to make them useful. How then has it happened that Congress has taken upon itself the right to erect light-houses, under their general power to regulate commerce?

measure, as gentlemen have persevered in refusing to assign the reasons which have induced them to oppose the passage of the bill. But, sir, I can clearly comprehend that the right to erect light-houses is not incidental to the power of regulating commerce, unless everything is incidental to that power which tends to facilitate and promote the prosperity of commerce. It is contended that under the power to lay and collect taxes, imposts, and duties, you can pass all laws necessary for that purpose, but they must be laws to lay and collect taxes, imposts, and duties, and not laws which tend to promote the collection of taxes. A law to erect light-houses is no more a law to regulate commerce, than a law creating a bank is a law to collect taxes, imposts, and duties. But the erection of light-houses tends to facilitate and promote the security and prosperity of commerce, and in an equal degree the erection of a bank tends to facilitate and insure the collection, safe-keeping, and transmission of your revenue. If, by this rule of construction, which is applied to light-houses, but denied to the bank, Congress can, as incidental to the power to regulate commerce, erect light-houses, it will be easy to show that the same right may be exercised, as incidental to the power of laying and collecting duties and imposts. Duties cannot be collected, unless vessels importing dutiable merchandise arrive in port; whatever, therefore, tends to secure their safe arrival may be exercised under the general power; the erection of light-houses does facilitate the safe arrival of vessels in port, and Congress therefore can exercise this right as incidental to the power to lay imposts and duties.

But it is said the advocates of the bank differ among themselves in fixing upon the general power to which the right to create a bank is incidental, and that this difference proves that there is no incidentality, to use a favorite expression, between that and any one of the enumerated general powers. The same reason can be urged, with equal force, against the constitutionality of every law for the erection of light-houses. Let the advocates for this doctrine lay their finger upon the power to which the right of erecting light-houses is incidental. It can be derived with as much apparent plausibility and reason from the right to lay duties, as from the right to regulate commerce. Who is there, now, in this body who has not voted for the erection of a light-house? And no man who reads one of these will believe it to be a regulation of commerce. And no man in the nation, so far as my knowledge extends, has ever complained of the exercise

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power of human imagination to devise. We say, therefore, in the words of the Constitution, that a bank is necessary and proper, to enable the Government to carry into complete effect the right to lay and collect taxes, imposts, duties, and excises. We do not say that the existence of the Government absolutely depends upon the operations of a bank, but that a national bank enables the Government to manage its fiscal concerns more advantageously than it could do by any other means. The terms necessary and proper, according to the construction given to every part of the Constitution, imposes no limitation upon the powers previously delegated. If these words had been omitted in the clause giving authority to pass laws to carry into execution the powers vested by the Constitution in the National Government, still Congress would have been bound to pass laws which were necessary and proper, and not such as were unnecessary and improper. Every legislative body, every person invested with power of any kind, is morally bound to use only those means which are necessary and proper for the correct execution of the powers delegated to them. But it is contended, that if a bank is necessary and proper for the management of the fiscal concerns of the nation, yet Congress has no power to incorporate one, because there are State banks which may be resorted to. No person who has undertaken to discuss this question has, as far as my knowledge extends, ventured to declare that a bank is not necessary. Every man admits, directly or indirectly, the necessity of resorting to banks of some kind. This admission is at least an apparent abandonment of the Constitutional objection; for, if a bank is necessary and proper, then have Congress the Constitutional right to erect a bank. But this is denied. It is contended that this idea rests alone upon the presumption that the Government of the United States is wholly independent of the State governments, which is not the fact; that this very law is dependent upon the State courts for its execution. This is certainly not the fact. The courts of the United States have decided, in the most solemn manner, that they have cognizance of all cases affecting the Bank of the United States. Sir, it is true that the Government of the United States is dependent upon the State governments for its organization. Members of both Houses of Congress, and the President of the United States, are chosen by the State governments, or under the authority of their laws. But it is equally true, that wherever the Constitution confides to the State governments the right to perform any act in relation to the Federal Government, it imposes

be necessary and proper for Congress to make itself dependent upon them in cases where no such obligation is imposed? The Constitution has defined all the cases where this Government ought to be dependent upon that of the States; and it would be unwise and improvident for us to multiply these cases by legislative acts, especially where we have no power to compel them to perform the act, for which we have made ourselves their dependents. In forming a permanent system of revenue, it would be unwise in Congress to rely, for its collection and transmission from one extreme of this extensive empire to the other, upon any accidental circumstance, wholly beyond their power or control. There are State banks in almost every State in the Union, but their existence is wholly independent of this Government, and their dissolution is equally so. The Secretary of the Treasury has informed you that he conceives a bank is necessary to the legitimate exercise of the powers vested by the Constitution in the Government. I know, sir, that the testimony of this officer will not be very highly estimated by several honorable members of this body. I am aware that this opinion has subjected him, and the committee also, to the most invidious aspersions; but, sir, the situation of that officer, independent of his immense talents, enables him to form a more correct opinion than any other man in the nation of the degree of necessity which exists at the present time for a national bank, to enable the Government to manage its fiscal operations. He has been ten years at the head of your Treasury; he is thoroughly acquainted with the influence of the bank upon your revenue system; and he has, when called upon, declared that a bank is necessary to the proper exercise of the legitimate powers of the Government. His testimony is entitled to great weight in the decision of this question, at least with those gentlemen who have no knowledge of the practical effects of the operations of the bank in the collection, safe-keeping, and transmission of your revenue. In the selection of means to carry any of your Constitutional powers into effect, you must exercise a sound discretion; acting under its influence, you will discover that what is proper at one time may be extremely unfit and improper at another. The original powers granted to the Government by the Constitution can never change with the varying circumstances of the country, but the means by which those powers are to be carried into effect must necessarily vary with the varying state and circumstances of the nation. We are, when acting to-day, not to inquire what means were ne-

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It is said, that the States have reserved to themselves the exclusive right of erecting banks. That the States have exercised the right of establishing banks is a fact not to be denied, but that they have this right under the Constitution, is extremely questionable. Had these great States, who have undertaken by their instructions to influence the decision of this question by Congress, contented themselves with the exercise of this right to establish banks, I should not, upon this occasion, enter into an investigation of that right. But these great States, not content with the exercise of an usurped authority, are by usurpation attempting to legislate for Congress.

And, sir, what is the inducement with these great States to put down the Bank of the United States? Their avarice, combined with the love of domination. They have erected banks, in many of which they hold stock to a considerable amount, and they wish to compel the United States to use their banks as places of deposit for their public moneys, by which they expect to increase their dividends. And in the banks in which they hold no stock, many of the individual members of their legislatures are stockholders, and no doubt were influenced to give instructions by motives of sheer avarice. The love of power no doubt has had some influence in producing these instructions. Every person, who is not wholly ignorant of the history of this Government, knows something of the influence of these great States upon the councils of the nation. Have we not heard it said, that after three of the great States had instructed their members to vote against the bank, it was a matter of too great delicacy for Congress to think of acting upon the subject? I had thought that the rights of the States were equal; that if the rights of three of the little States were violated or affected in any manner, that it was a subject of as much delicacy as if the rights of three great States had been affected. Sir, if this doctrine becomes fashionable; if two or three great States can upon all occasions, through the agency of their legislatures, control the deliberations of Congress, you will compel the smaller States, by the most direful necessity, to adopt the principle of one consolidated government. Which of the States are to be principally benefited by the dissolution of the bank? Those States in which the principal part of your revenue is to be collected. The great commercial States are to monopolize the benefits which are to arise from the deposits of your public money. The suppression of this bank will benefit none of the interior or smaller States, in which there is little or no revenue collected. As the whole benefit is to be engrossed

this Government in a state of dependence upon them? Sir, the time has been, and it will certainly arrive again, when some one or more of these great States will be found in a state of hostility to the National Government; and with this knowledge you are about to place the management of your public money in the hands of the State banks, who are dependent for their legal existence upon the State governments. But, sir, permit me to examine this exclusive right of the State governments to create banks. In the tenth section of the first article of the Constitution of the United States, it is declared, among other things, that no State shall coin moneys; emit bills of credit; make anything but gold or silver a tender in the payment of debts. What, sir, is a bill of credit? Will it be contended that a bank bill is not a bill of credit? They are, emphatically, bills of credit. But it may be said, that the States do not, by the creation of banks with authority to emit these bills of credit, infringe upon the Constitution, because they do not emit the bills themselves. If they have not the power to emit bills of credit, *a fortiori*, they cannot delegate to others a right which they themselves cannot exercise. But, sir, according to the maxims of law and sound reason, what they do by another they do themselves. If, then, the State governments are restrained from exercising this right to incorporate a bank, it would appear *ex necessitate rei* that this right is vested in the Government of the United States. The entire sovereignty of this nation is vested in the State governments and in the Federal Government, except that part of it which is retained by the people, which is solely the right of electing their public functionaries. The right to create a corporation is a right inherent in every sovereignty; the people of the United States cannot exercise this right. If, then, the States are restrained from creating a bank with authority to emit bills of credit, it appears to be established that the Federal Government does possess this right. If, however, it is still believed that the law by which this bank has been created was the result of a forced construction of the Constitution, yet I must contend that that construction is entitled to some weight in the decision of this question. The time and state of the public mind, when this construction was given, gives it a strong claim to consideration upon this occasion. This construction was given shortly after the Government was organized, when first impressions had not been effaced by lapse of time, or distorted by party feelings, or individual animosity. This law did not pass in the hard unconstitutional times which produced the Sedition

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cumstances under which we are called upon to reject this bill? The great influential States, induced by motives of avarice and ambition, interpose the weight of their authority; attempt to put a veto upon your right to pass such laws as are necessary and proper for the general welfare, through the instrumentality of instructions, by depriving not only their Senators and Representatives of the exercise of a sound and honest discretion, but also by intimidating others by the weight of their influence and authority. The Democratic presses in these great States have for more than twelve months past teemed with the most scurrilous abuse against every member of Congress who has dared to utter a syllable in favor of the renewal of the bank charter. The member who dares to give his opinion in favor of the renewal of the charter, is instantly charged with being bribed by the agents of the bank, with being corrupt, with having trampled upon the rights and liberties of the people, with having sold the sovereignty of the United States to foreign capitalists, with being guilty of perjury, by having violated the Constitution. Yes, sir, these are the circumstances under which we are called upon to reject the bill. When we compare the circumstances under which we are now acting with those which existed at the time when the law was passed to incorporate the bank, we may well distrust our own judgments. Sir, I had always thought that a corporation was an artificial body, existing only in contemplation of law; but if we can believe the rantings of our Democratic editors in these great States, and the denunciations of our public declaimers, it exists under the form of every foul and hateful beast and bird, and creeping thing. It is an *Hydra*; it is a *Cerberus*; it is a *Gorgon*; it is a *Vulture*; it is a *Viper*. Yes, sir, in their imaginations it not only assumes every hideous and frightful form, but it possesses every poisonous, deleterious, and destructive quality. Shall we, sir, suffer our imaginations to be alarmed, and our judgments to be influenced, by such miserable stuff? Shall we tamely act under the lash of this tyranny of the press? No man complains of the discussion in the newspapers of any subject which comes before the Legislature of the Union. But I most solemnly protest against the course which has been pursued by these editors in relation to this question. Instead of reasoning to prove the unconstitutionality of the law, they charge members of Congress with being bribed or corrupted. And this is what they call the liberty of the press. To tyranny, under whatever form it may be exercised, I declare open and interminable war. To me it is perfectly indif-

are entitled to no weight or consideration? Perhaps it would be unfair to lay any stress upon the simple acquiescence of our democratic predecessors in this measure. I shall therefore show, that the acts to which I allude were positive affirmative acts, and not simply, or in any degree, acts of acquiescence. By the charter, the corporation was authorized to establish offices of discount and deposit wheresoever it should think fit, within the United States. In the year 1803, the United States obtained Louisiana by purchase. Under the authority given in the charter, the corporation could not extend its branches into Louisiana. In the year 1804, a democratic Congress passed a law to authorize this devouring monster to lay its destructive fangs upon the unfortunate people of these newly acquired Territories. It has been said that the State governments were competent to resist the execution of this law. How ungenerous, then, was it in our democratic predecessors to authorize this institution, with its pestilential fangs, to seize upon these helpless and unfortunate people, who had no State governments competent to resist the execution of this law, and shield them from the deadly poison of this venomous viper. It was unkind; it was cruel. Permit me, sir, to make one or two observations upon this competency of the State governments to resist the authority or the execution of a law of Congress. What kind of resistance can they make which is Constitutional? I know of but one kind, and that is by elections. The people and the States have a right to change the members of the National Legislature; and in that way, and in that alone, can they effect a change of the measures of this Government.

It is true there is another kind of resistance which may be made, but it is unknown to the Constitution. This resistance depends upon physical force—it is an appeal to the sword—and by the sword must that appeal be decided, and not by the provisions of the Constitution.

We are informed, however, that the States thought it most prudent to acquiesce in this law, and waive the right of resisting it, to which they were so entirely competent.

Does the positive sanction of this measure by our democratic Congresses rest alone upon this act of 1804? No, sir; the act by which the bank was incorporated made no provision for the punishment of those who might counterfeit its bills and checks. In the year 1798, a law for the punishment of such offences was passed. In the year 1807, a democratic Congress, composed of many of the same members who are now called upon

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of the United States." I have shown that the power to punish counterfeiting the current coin was fairly incidental to the power of coining money. But the power to punish counterfeiting the securities is an original grant of power, and not incidental to any one of the delegated powers. As the Constitution has given the power to punish counterfeiting the securities and the current coin, expressly, according to the doctrine contended for by the enemies of the bank, the power to punish any other species of forgery is withheld. But let us pursue this idea a little further. The law incorporating the bank is denounced as unconstitutional; it therefore is not binding upon the people of the United States as a law, and yet the very men who denounce it, who declare it to be unconstitutional, have passed a law to condemn those who violate its provisions to ten years imprisonment, and to enormous fines. With what propriety can we say that our republican predecessors have simply acquiesced in this measure? With what consistency can we now refuse to renew the charter on account of the want of Constitutional power? But it is contended that we have done nothing more than simply acquiesced in this measure, and that our acquiescence was wholly the result of a conviction that the act incorporating a bank was a contract. What, sir, is the essence of a contract? That there shall be parties able to contract; that they do contract; that there shall be a consideration, a *quid pro quo*; that the conditions shall be reciprocal. What is the fact in relation to the bank bill? Does the bank make any stipulations in favor of the Government? No, none. Does the charter stipulate that the Government shall provide for the punishment of those who counterfeit bank bills? No. And yet a republican Congress, under the idea, I suppose, of its being a contract, has passed a law for that purpose. The law does not contain one essential feature of a contract; it is, therefore, no contract.

If I have succeeded in establishing the Constitutional right of this House to pass a bill to incorporate a bank, the remaining part of the task which I have undertaken to perform will be easily dispatched. What are the circumstances under which we are called upon to vote against the renewal of the charter of the Bank of the United States? Europe is still convulsed to its centre, by wars which, in their progress, have overthrown the ancient bounds and limits of the independent nations among whom it has been immemorially parcelled out. The established usages and laws of nations have been trampled under foot both by land and sea. Such is the prospect abroad. What is our internal situation?

those which must necessarily result from a non-intercourse with England, the country with which we have hitherto had the most extensive commercial intercourse. From these additional embarrassments we may be saved by the want of good faith in the French Government. Should that be the case, we shall most inevitably be excluded from all commercial intercourse with the European continent, which may be as embarrassing as the non-intercourse with Great Britain. In that event our European commerce will be confined solely to Great Britain and her dependencies. Such, sir, are the circumstances under which we are called upon to dissolve suddenly an institution which circulates \$13,000,000, and to which the commercial class of this nation are indebted \$14,000,000. It must also be remembered, that the same class of your citizens are indebted to the Government nearly \$12,000,000, upon which your payments into the Treasury for the discharge of the current expenses of the year are solely dependent. Sir, I have never believed that the mantle of Elijah has descended upon my shoulders, and yet I can very easily foresee, that individual and national distress must be produced by the sudden dissolution of the bank. The poorer part of your manufacturers and mechanics will be the first to feel the distress. The deputation of mechanics and manufacturers from the city of Philadelphia stated to the committee, that upon the rejection of the bill for the renewal of the charter, in the other House, the bank began to contract its discounts, and that the whole city was filled with alarm and dismay. That the credit even of bank paper was shaken, and individual confidence had received a severe shock. That in consequence of this alarm and distress, the bank had determined to return to its former extent of discounts and to continue it to the last moment. That the contraction of discounts by the Bank of the United States had produced a contraction of discounts in the State banks, so that those who had their accounts with the latter banks were in no better situation than the debtors of the former. Whenever a man testifies against his apparent interest, he ought to be believed. It is apparently the interest of the State banks that the Bank of the United States should be put down. It is their interest to discount good paper as largely as possible. The Bank of the United States discounts to the amount of about \$15,000,000. The dissolution of this bank will bring into the market, which will then be solely occupied by the State banks, an excess of \$15,000,000 of good paper to be discounted. The demand for discounts, when compared with the discounting capital, will be greatly increased, and the

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sion of that question, because it is not the question before the Senate. The system has long been practised upon; is increasing from day to day, and is wholly beyond the control of Congress. But, sir, an inspection of the Journals of the Senate of the present session affords abundant evidence, that this House, at least, believe that the banking system is a beneficial one. We have not incorporated more, I believe, than five banks within the District of Columbia during the present session. The renewal, or the refusal to renew this charter, does not then decide the question whether the banking system shall be abolished in the United States or not. Gentlemen cannot but be sensible of this. The old Congress incorporated the Bank of North America in the year 1781. New York and Massachusetts had followed the example before the Bank of the United States was incorporated, and every State in the Union has since incorporated banks. The banking system has been too long and too deeply rooted, to be frowned out of existence by Congress. If, however, gentlemen are convinced that the system of banking known and established among us is injurious in its effects, these injurious effects will be diminished by renewing the charter of the Bank of the United States. The State banks, whose credibility in this case is unquestionable, have told you that the influence of the Bank of the United States upon them is a beneficial one; that it prevents excessive discounts and emissions of paper, which but for this check would inevitably take place in the State banks. Every one of the State banks of Philadelphia, except one, has petitioned for the renewal of the Bank of the United States, and one of the deputation of merchants who was a director of one of those banks stated the reason why that bank had declined. That an association in some of the interior towns had been formed without the authority of law, and that the bank was suspected by the State Legislature of having favored it; that a motion had been made in the State Legislature to inquire into the fact, and that, in consequence of this circumstance, that bank had been prevented from petitioning. The check which one bank has upon another is in fact the only substantial check which can be devised against excessive discounts and emissions by State banks. You may limit and restrain them by subjecting the directors individually to any loss which may be incurred by a violation of the restrictions imposed by the charter. Suppose they discount to twice the amount permitted, and the stockholders, who alone have the means of discovery, ascertain the fact; they will

Bank for twelve years, and they all united in contradicting all idea of its being partial, or influenced in the slightest degree by the political character of its customers during that time. And one of them said explicitly that opposition to the renewal in Philadelphia was confined principally to the newspapers. When there were but few banks and the competition for discounts was great, I can readily believe, that it might have had some influence upon political questions and that it was guilty of partiality; and so would any other institution placed in the same situation. The multiplication of banks in the United States has given us the most ample security against the repetition of either of these offences. The most formidable objection against the expediency of the renewal, in the estimation of those who are opposed to it, is that a large portion of the stock is held by foreigners; and apprehensions are entertained that these foreigners have had, and will again have some influence upon our public councils; that but for the influence thus acquired, we should have taken stronger measures in vindication of our rights. If this influence really exists, some degree of influence must also exist and operate upon those foreigners in our favor. If the most profitable part of their capital is that which is invested in our bank stock, which the Government has sold to them, will they not exert their influence upon their own councils, upon any apprehension of war between the two countries? Surely the country in which their capital is employed, and who can at any moment lay their hands upon it, must have more influence upon the conduct of the capitalists, than they can possibly have upon it. How long shall we frighten ourselves with empty phantoms and imaginary evils? How long shall we indulge ourselves in the pursuit of some imaginary theoretical good, which, like the will-o'-the-wisp, continually eludes our grasp? Sir, we have the experience of twenty years for our guide. During that lapse of years your finances have been, through the agency of this bank, skilfully and successfully managed. During this period, the improvement of the country and the prosperity of the nation have been rapidly progressing. Why then should we, at this perilous and momentous crisis, abandon a well tried system; faulty perhaps in the detail, but sound in its fundamental principles? Does the pride of opinion revolt at the idea of acquiescing in the system of your political opponents? Come! and with me sacrifice your pride and political resentments at the shrine of political good. Let them be made a propitiatory sacrifice for the promotion of the public welfare, the

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Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory," reported it without amendment.

On motion, by Mr. GILMAN,

Resolved, That a committee be appointed to inquire into the expediency of opening another passage to the gallery, on the west side of the Senate Chamber, and to propose such alterations as they may deem proper.

Ordered, That Messrs. GILMAN, GREGG, and DANA, be the committee.

Mr. DANA, from the committee to whom was referred the bill for the benefit of seamen of the United States, reported it amended; and the amendments were read, and ordered to be printed for the use of the Senate.

Mr. DANA also communicated a letter to the committee, from the Secretary of the Department of State, on the subject of naturalized American seamen; which was read; and ordered to be printed for the use of the Senate.

The bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes, was read the second time.

The bill, entitled "An act to authorize the election of sheriffs in the Indiana Territory," was read the second time and referred to a select committee, to consider and report thereon; and Messrs. CAMPBELL, FRANKLIN, and LEIB, were appointed the committee.

The bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act concerning Consuls and Vice Consuls,' and for the further protection of American seamen," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, GILMAN, and BRENT, were appointed the committee.

The Senate resumed the motion of the 8th instant, "That a committee be appointed to bring in a bill making compensation to certain officers of the customs;" and, on the question to agree thereto, it was determined in the negative.

Mr. TAYLOR presented the memorial of Joseph Wheaton, praying remuneration for services rendered to the United States in the Revolutionary war, and compensation for losses sustained therein; and the memorial was read, and referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. TAYLOR, BRADLEY, and DANA, were appointed the committee.

The Senate resumed the consideration of their amendment, disagreed to by the House of Representatives, to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the

Dana, Gaillard, Giles, Gilman, Goodrich, Gregg, Horsey, Leib, Lloyd, Pickering, Reed, Smith of New York, Taylor, Turner, and Worthington.

On motion, by Mr. TAIT,

Resolved, That the Senate insist on their amendment to the said bill.

The engrossed bill authorizing the sale and grant of a certain quantity of public land to the Havre de Grace Bridge Company was read the third time, and the blanks filled.

On motion, by Mr. WORTHINGTON, that the further consideration of the bill be postponed to the first Monday in December next, it was determined in the negative. And on the question, Shall this bill pass? it was determined in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Anderson, Bayard, Giles, Goodrich, Gregg, Horsey, Leib, Pickering, Reed, Smith of Maryland, Smith of New York, Whiteside, and Worthington.

NAYS—Messrs. Bradley, Champlin, Condit, Crawford, Cutts, Franklin, Gaillard, Gilman, Lambert, Lloyd, Matthewson, Robinson, Tait, and Turner.

The bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the Register and Receiver of the Public Moneys to superintend the public sales of land in the district east of Pearl river," was read the third time as amended.

Resolved, That this bill pass with amendments.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Bank of Potomac;" and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Bank of Washington," and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the subscribers to the Farmers' Bank of Alexandria," and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Union Bank of Georgetown."

On motion, by Mr. BRENT, they were referred to a select committee, to consider and report thereon. Messrs. BRENT, POPE, and CRAWFORD, were appointed the committee.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the sub-

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that it was not only a waste of time, but a work of supererogation to discuss it. He should not have risen but for some remarks, which had yesterday fallen from the gentleman from Georgia. Some intimation had been given by him about instructions from the great States, and while it seemed to be matter of complaint that such instructions had been given, it appeared also that the complaint extended to the non-production of them to the Senate. He had received instructions from a great State, as the gentleman from Georgia had termed it; for he did not recollect that the gentleman from Maryland, to whom the phrase was attributed, had used it—the great State of Pennsylvania; and those instructions he would have offered to the Senate before, had not some informality in their shape precluded him. The instructions having been mentioned, he deemed it a duty to read them to the Senate.

In the General Assembly of the Commonwealth of Pennsylvania.

The people of the United States, by the adoption of the Federal Constitution, established a General Government for special purposes, reserving to themselves respectively the rights and authorities not delegated in that instrument. To the compact thereby created, each State acceded in its charter as a State, and is a party; the United States forming, as to it, the other party. The act of union, thus entered into, being to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise; for if it were so to judge, then its judgment and not the Constitution would be the measure of its authority.

Should the General Government, in any of its departments, violate the provisions of the Constitution, it rests with the States and with the people to apply suitable remedies.

With these impressions, the Legislature of Pennsylvania, to secure an administration of the Federal and State Governments conformably to the true spirit of their respective constitutions, feel it their duty to express their sentiments upon an important subject now before Congress, viz: the continuance or establishment of a bank. From a careful review of the powers vested in the General Government, they have the most positive conviction that the authority to grant charters of incorporation, within the jurisdiction of any State, without the consent thereof, is not recognised in that instrument, either expressly or by any warrantable implication: Therefore,

Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, That the Senators of this State in the Senate of the United States be and are hereby in-

resolution to each of the Senators and Representatives of this State in the Congress of the United States.

JOHN WEBER, *Speaker H. R.*

P. C. LANE, *Speaker of the Senate.*

In the House of Representatives, January 11th, 1811. Read and adopted.

Attest: GEORGE HECKERT, *Clerk H. R.*

In Senate, January 11th, 1811. Read and adopted.

Attest: J. A. McJIMSEY, *Clerk of the Senate.*

Wherefore, he would ask, was this made a cause of complaint? The instructions were given by the Legislature of Pennsylvania to their representatives. Was the right of the constituent denied to instruct his representative? For the instructions extended not beyond the representation. It was an affair between representatives and constituents, and as it did not proceed beyond them, as none else were comprehended, surely no cause could have been given for complaint. For his part he assented to the right of constituents to instruct, and was ready to yield it obedience—it was in accordance with his political maxims; and he should ever consider himself bound to obey instructions as long as they did not require the performance of an act, which would violate that oath which he had taken. On this occasion he yielded obedience with pride and pleasure, as the instructions corresponded with his own impressions of solemn obligation. He considered himself as the representative of the State of Pennsylvania; to represent, in his mind, was to appear for, or stand in the place of the body represented, and, in this view, he considered it his duty to speak the sense of his constituents, to do as they would do, were they present, otherwise he should misrepresent them. Did this look like dictation? Did it appear as if the great States desired to give law to the smaller ones, when they only gave their instructions to their own representatives, and none else were asked to render them obedience? He could not suppose it.

Allusion had been made to Pennsylvania on account of resistance to the laws of the United States. He felt the reproach, and had often experienced mortification from it. He had never countenanced unlawful opposition, nor had the people of Pennsylvania; for when it had existed, it had been local, and had never embraced the State; and therefore, the people of Pennsylvania were not comprehended in the reproach. The gentleman from Georgia had cited authority for renewing the charter of the Bank of the United States, and had at the same time disclaimed authority; in imitation of his example he would do so too, and he might say, that for the excite-

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Bank of Philadelphia, and his information must have been derived from out-of-doors rumor. The Farmers and Mechanics Bank, Mr. LEIB apprehended, refused to petition for the renewal of the charter of the Bank of the United States, for other reasons. He knew a gentleman who managed the affairs of that bank, of superior intelligence and information, and second to none in point of knowledge of banking, who was as much opposed to a renewal as he was, and for a reason not unlike that hinted at by the gentleman from Georgia, that the Bank of the United States was a check upon the other banks, but a check like that of a shark upon the little fish around him. It was in the power of the Bank of the United States, by means of its great capital and the Governmental patronage, to prey upon the other banks whenever it pleased, and this was sufficient reason for the Farmers and Mechanics Bank to refuse its aid towards a renewal of the charter. These remarks he thought it his duty to submit to the Senate, and, in conformity with his first determination, he avoided any remarks upon the merits of the bill, which he conceived every member was already prepared to decide upon.

Mr. LLOYD.—Mr. President: This is indeed, sir, an up-hill, wind-mill sort of warfare—a novel mode of legislative proceeding. That a bill should be brought in on a very important subject which has been long under consideration, and that a gentleman should move to strike out the first section of the bill, which comprises all its vitality, (for it is the first section which provides for the continuance of the bank,) and should be supported in it, without deigning to assign any other reasons than may be derived from newspaper publications, which are so crude and voluminous that not one man out of ten will so far mispend his time as to take the trouble to read them, is indeed extraordinary. Still, if gentlemen choose to adopt this dumb sort of legislation, and are determined to take the question without offering any arguments in support of their opinions, I certainly should not have interfered with their wishes, had I not been a member of the committee who had reported the bill, who had heard the testimony offered by two very respectable delegations from Philadelphia; one from the master manufacturers and mechanics of the city, and the other from the merchants; and had I not taken minutes of this testimony, which I find it is expected from me that I should relate to the Senate.

Sir, I consider the motion to strike out, now under consideration, as going to the entire destruction of the bill, without any reference to its details or modifications; it therefore appears to

tion of a bill was moved to be struck out, that the subject-matter of the part so moved to be stricken out was only in order to be considered—but however this may be, I take it to be strictly in order to show, that this bank has been ably and fairly conducted, that it has been beneficial to the country, and extremely useful to the Government; because if this be shown, it will be the best argument that can be adduced for the rejection of the present motion, and the continuance of the bank.

Sir, it is admitted by the Secretary of the Treasury, in his communications to Congress, that the concerns of this bank have been "skilfully and wisely managed," that the bank has made a very limited and moderate use of the public moneys deposited with it; and that it has greatly facilitated the operations of Government by the safe-keeping and transmission of the public moneys. It has at all times met the wishes of the Government in making loans. It has done this even at six per cent., while the Government have been obliged, in one instance, for a considerable amount, to pay eight per cent. to other persons for the loans obtained from them. It is admitted, sir, that the bank, at the request of the Treasury Department, has established branches for the purpose of facilitating the operations of the Government at places where such establishments could not but be inconvenient to them in point of management, and disadvantageous in point of profit. I allude more particularly, sir, to the branches of the bank which have been established at New Orleans and at Washington. We have been told this session, sir, by a gentleman from Maryland, (Mr. SMITH,) that the Territory of Orleans is a very wealthy one, that it probably contains a greater number of rich inhabitants, for its population, than any other district in the Union. Sir, if this be the fact, of whom does this wealthy population consist? Not of the inhabitants, but of the planters; men who are not borrowers of the bank, who, when they realize the sales of their produce, invest the surplus proceeds of it beyond their expenditure in the funds, or in the acquisition of new lands, or in the purchase of an additional number of negroes. Sir, it is notorious, that from the recent possession by the United States of Louisiana, and the certainty that New Orleans must soon be the emporium of an immense western commerce, that city has become more the resort of the young, the adventurous, the enterprising, and the rash among the mercantile men of our country, than any other city in the Union; and it is obvious, sir, in proportion as the borrowers from a bank consist of

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bank in this city? What the ability of its debtors to meet their engagements? It is stated the branch has a loan out here of four hundred thousand dollars. Where is the navigation?—where the wealthy merchants?—where are the opulent tradesmen?—the extensive manufacturers, to refund this money, when they are called on to do it? Sir, they are not to be found; they do not exist here; there are but very few opulent men in the city, and those are either not borrowers of the bank, or not borrowers to an amount of any importance. Where then is the money to be found, or what has been done with it? It has probably been taken out of the Bank of the United States to build up the five or six District banks which you have chartered the present session; to furnish the means of erecting the fifty or sixty brick houses which we are told have made their appearance during the last Summer; to encourage speculations in city lots, and to enable the proprietors to progress with the half finished canal which nearly adjoins us. Well, sir, if the bank promptly calls in its loan of four hundred thousand dollars, will the debtors be enabled to meet their payments? Can they sell these lots, these brick houses, these canal shares? No, sir, in such a state of things they could find no purchasers, they could nearly as well create a world as to furnish the money; and if the bank is to stop, and the payment of this debt be speedily coerced, I would not give two hundred thousand dollars for the whole of it.

In addition to this, I shall show presently, from testimony which cannot be controverted, that the conduct of the Bank of the United States, or its directors, or rather the stockholders, whose agents they are, in addition to being wise and skilful, and moderate, as the Secretary of the Treasury states them to have been, that they have also been honorable, and liberal, and impartial; and if, in addition to this, it be proved, that the bank has, in every instance where it had the ability to do it, met the wishes of the Government, and to facilitate its views in the security and collection of the revenue, it has also established branches where it must have been obviously and palpably to the disadvantage of the bank to do it—if it has furnished capitals for the extension of our commerce, if it has provided means for the establishment of important manufactories, if it has had a tendency to raise the price of our domestic produce, and has thus encouraged industry, and improved and embellished the interior of the country—it would seem pretty strongly to follow, that if it be expedient to preserve the existence of an institution

limitation, and that beyond this period they have no right to expect anything which may not arise from the interest and convenience of the Government. I admit, sir, there is considerable strength in these objections. The exclusive right contained in the charter ever appeared to me as furnishing the most solid Constitutional objection against the bank. The creation of monopolies; the granting of exclusive privileges, except so far as to secure to the authors of useful inventions the benefit of their discoveries; the tying up of the hands of the Legislature, and depriving itself of the power of according to a set of citizens, who may come into legal existence to-morrow, or ten years hence, what it had given to another; ever appeared to me hostile to the genius and spirit of the people of the United States, and of all their institutions. Highly then, sir, as I am induced to think of the conduct of this bank, from the best evidence I can obtain, still, from the considerations I have just mentioned, did the question now before us simply affect the stockholders, I should certainly not trouble the Senate with any remarks in reference to it, and should sit down in entire acquiescence, whether the prayer of their petition for the renewal of the charter of the bank were granted or rejected.

Sir, before quitting this idea of Constitutional objection, permit me to make one or two brief remarks in regard to it. It is impossible for the ingenuity of man to devise any written system of Government, which, after a lapse of time, extension of empire, or change of circumstances, shall be able to carry its own provisions into operation—hence, sir, the indispensable necessity of implied or resulting powers, and hence the provision in the Constitution that the Government should exercise such additional powers as were necessary to carry those that had been delegated into effect. Sir, if this country goes on increasing and extending, in the ratio it has done, it is not impossible that hereafter, to provide for all the new cases that may rise under this new state of things, the defined powers may prove only a text, and the implied or resulting powers may furnish the sermon to it.

Permit me, sir, to put one question on this head, in addition to those so ably, and to my view, unanswerably put yesterday by the honorable gentleman from Georgia (Mr. CRAWFORD.) Whence, sir, do you get the right, whence do you derive the powers to erect custom-houses in the maritime districts of the United States? To attach to them ten, fifteen, or twenty custom-house officers; and clothe these men with author-

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ance of probability, or probable cause of suspicion of his secreting smuggled goods, which the event may prove to be unfounded—and it will be recollected that a majority of Congress voted for the grant of this power in its most offensive form, when two years since they voted for the act enforcing the embargo—I say, sir, if under this general power to collect duties, you can erect the establishment and give the offensive power just mentioned, can you not, with the concurrence even of the citizens, adopt another more mild and useful mode, and create an establishment for the collection and safe-keeping of the revenue, and place it under the direction of ten or twelve directors, and christen it an office of discount and deposit, or of collection and payment, as you like best? And can you not, when you have thus created it, give to the directors a power, which perhaps they would have without your grant, to receive and keep the cash of those who choose to place it with them and to loan them money at the legal rate of interest, and in some places, as at New York, at nearly fifteen per cent. above the legal rate of interest? If you can do this, then you have your bank established, sir—and, most assuredly, if you can do one of these things you can do the other.

Sir, the Constitutional objection to this bank, on the ground that Congress had not the power to grant an act of incorporation, has ever appeared to me the most unsound and untenable. Still gentlemen of intelligence and of integrity, who have thought long and deeply on the subject, think differently from me: and I feel bound to respect their opinions, however opposed they may be to my own. Yet, sir, I will venture to predict, without feeling any anxiety for the fate of the prophecy, that should this bank be suffered to run down, such will be the state of things before this time twelve months, that there are other gentlemen, who at present have Constitutional objections, but who have not thought so long and deeply upon them, will, before that time, receive such a flood of intelligence, as on this head perfectly to dispel their doubts, and quiet their consciences.

Sir, I shall now proceed as briefly as may be in my power to state the situation of this bank on the expiration of its charter, and the effects on the community consequent on it. There is now due to the bank from individuals fifteen millions of dollars. These fifteen millions of dollars must be collected—the power of the bank to grant discounts will have ceased, and the duty of the directors must require them to make the collection. Sir, how is this to be done? Whence can the

warehouse is full of goods, and he has a large sum placed at his credit in England? If, sir, he can neither sell his ships, nor his goods—if he cannot sell his real estate nor scarcely give away his exchange, which hitherto, to men who had money in England, has been a never failing source of supply in case of need; I say under these circumstances, sir, whatever may be his property, he cannot meet his engagements. Sir, can men thus situated, solvent as they ought to be ten times over, find relief from the State banks? Certainly not, sir. These banks have already gone to the extreme length of their ability; they have always discounted to an amount in proportion to their capital exceeding that of the Bank of the United States, which is incontrovertibly proved by the dividends they have declared, which have at most universally equalled and frequently exceeded those of the Bank of the United States, notwithstanding the advantage enjoyed by the latter from the deposit of public moneys. Sir, so far from having it in their power, in the case of the dissolution of the Bank of the United States, to assist the debtors to that bank in meeting their engagements to it—I affirm the fact, on which I have myself a perfect reliance, that, take the State banks from Boston to Washington, and after paying their debts to the Bank of the United States, they have not, nor do I believe they have had, for six months back, specie enough to pay the debts due to their depositors, and the amount of their bills in circulation. And here I beg it to be observed, that bank bills, and bank deposits, or credits, are precisely the same thing—with this difference, that the latter, from the residence in the neighborhood of the banks, and the vigilance of the proprietors, would be the first called for. How idle is it then to expect to obtain relief from banks which have already extended themselves beyond the bounds of prudence, and have not even at present the ability to meet their existing engagements? It might nearly as well be expected, that a man who was already a bankrupt should prop and support his failing neighbor.

Sir, much has been recently said of the amount of specie in the United States. Theoretical men have made many and vague conjectures about it, for after all it must rest upon conjecture; some have estimated it at ten millions of dollars—some twelve, some twenty, and some newspaper scribblers at forty millions of dollars. Sir, I do not believe that for the last ten years the United States have at any time been more bare of specie than at the present moment. A few years since, specie flowed in upon us in abundance. This resulted

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the United States. These bankers, by their agent, contracted with certain American houses, principally I believe in Baltimore, for the importation of this specie from La Vera Cruz into the United States, from whence it was not transmitted in coin to Europe, but invested in adventures in the shipments of produce, the proceeds of which ultimately go into the hands of these bankers in London, or of their friends on the Continent, from whom it was finally realized by the French Government, either by drafts from Paris, or remittances to that city. This operation had a trebly favorable effect on the United States—it made fortunes for some of the merchants, it furnished the means of shipments to Europe, and it also provided the funds for adventures to the East Indies and to China. But this contract has now been finished some years; and since that time there has been a constant drain of specie from the country. Where it is in future to be procured from, I know not. Not from South America. Specie is, I believe, protected from exportation there, except to Spain. From Spain we cannot get it—to a great part of what was Spain we have now scarcely any trade. From France it cannot be obtained, for if we can get there even by license, we are obliged to bring back her produce or manufactures. From England it cannot be imported—it is now made highly penal to attempt to send it out of the kingdom. With South America we have but little trade—hitherto we furnished them with smuggled or licensed European and India goods; but now the markets are flooded with these goods, by importations direct from England, and which have been attended with great loss to the shippers. For these reasons, it is difficult to find a vessel sailing from the United States to the Spanish ports in South America. These are among the reasons why the amount of specie now in the country is small, and has for some time past been gradually lessening. Sir, without indulging in vague conjectures, what are the best data we have to form an estimate of the amount of specie in the country? The Bank of the United States has five millions of dollars in its vaults. In Boston there are three State banks—in New York I believe four, Philadelphia four, and Baltimore eight—call these nineteen twenty, and allow on an average one hundred and fifty thousand dollars specie, which probably is as much as they generally possess, and this will make three millions of dollars; this amount, united to the sum in the vaults of the Bank of the United States, gives eight millions of dollars—to which, if you allow two millions of dollars for a loose circulation of specie

and mistrust, it would afford no addition to your circulating medium; for it is precisely in times like these, that men who hoard money will lock it up most securely.

Sir, the circulation of our country is at present emphatically a paper circulation—very little specie passes in exchange between individuals—it is a circulation bottomed on bank paper and bank credits, amounting perhaps to fifty millions of dollars. And on what, sir, does this circulation rest? It rests upon the ten millions of dollars, if that be the amount of specie in the country, and upon public confidence.

The Bank of the United States has fifteen millions of dollars to collect—call it ten, sir—nobody will dispute this—no one will pretend that this bank is not solvent—the remnant of its surplus dividends, and the interest it will have earned, will be sufficient to cover its losses at New Orleans, at Washington, and perhaps elsewhere. In what are these ten millions of dollars to be collected? In bank bills, the credit of which is at least doubtful? No, sir, in specie; and when this is entirely withdrawn from the State banks, and the banks are unable to pay the money for their bills, who does not see that this confidence is instantly destroyed—that the bubble bursts—that floods of paper bills will be poured in upon them, which they will be unable to meet, and which will for a time be as worthless as oak leaves—that the banks themselves must, at least temporarily, become bankrupts, and that a prostration of credit, and all those habits of punctuality which, for twenty years, we have been striving so successfully to establish, will inevitably ensue, and, with them, also, there must be suspended the commerce, the industry and manufactures of the country; and a scene of embarrassment and derangement be produced, which has been unexampled in our history.

I will now make a very few remarks on the effects which the dissolution of the bank will have on the revenue and fiscal concerns of the country. Can it be supposed, sir, that the source to which will be imputed the distress that will have flowed from this event, will be the first to be thought of to be guarded against a participation of the evils that will result from it, in preference to the claims of the most intimate friends and connexions? No, sir, the bonds due to the United States will be collected only at the tail of an execution. But I mean not to press this consideration. Admit, for a moment, that they will all be equally well collected—that they will be paid as usual, although it is palpable that for a con-

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would not be readily current in Washington. You must then, sir, if Boston gives you a revenue of two millions of dollars, transmit the greater part of it to the seat of Government, or wherever it may be wanted in specie. Can this be done? We have not two millions of dollars of specie in our town, and, I may almost venture to say, never had. Suppose you make this transmission once, can you do it a second time? No, sir, the thing is utterly impracticable. You must adopt some other mode. Exchange between the different cities will not reach the case; frequently it cannot be purchased even for an insignificant amount.

Sir, will your money, when collected, be safe in the State banks? Of this I am extremely doubtful. Solicitations will undoubtedly be made for it from all quarters. They have already been made. In one instance, I am told, sir, the agent of a bank, even during the few past weeks, has been here for the purpose—that suddenly the agent was gone, and in a few days it was discovered that, owing to the failure of one of the debtors to the bank which he represented, (a great broker,) the stock had fallen in one day near 20 per cent. What was this the evidence of, but that those who were most interested in this bank, the stockholders who were on the spot, and best acquainted with its solidity, were willing to wash their hands of their concern in it, at almost any rate of sacrifice? Sir, I only state this, as it was here reported. I have no personal knowledge on the subject. But will you trust your funds with an institution thus precarious, and whose solidity is distrusted even by its best friends?

By an account of the receipts and expenditures for the year 1810, laid on our tables, I find there has been passed to the credit of the United States, \$390 received from the Lincoln and Kennebec Bank, in Massachusetts, as an interest on the public money while deposited at that bank. The history of this credit of interest, is, I presume, the following: The money was deposited at the bank for account of the United States; the bank used the money for its own accommodation, and, when called on for the amount, could not refund it. This allowance of interest is therefore for the time during which the bank could not pay the money. The amount in this instance is small, sir, and the United States have received a compensation for the use of the money. It proves, however, what has been done, and will be done again. Suppose it should be done on a large scale, and when the Government wants its funds, it cannot command them—interest on the amount will not pay the salaries of the officers of the na-

selected from the master manufacturers and mechanics, and the other from the merchants of that city. It will go conclusively to show the effects which it is apprehended will issue from the cessation of the Bank of the United States in a city, the first perhaps in population and wealth in the Union, and the one least engaged of any of the great seaports, in proportion to its wealth, in foreign commerce.

The agents from the manufacturers and mechanics told their story in a plain, straightforward manner, each one narrating facts which affected himself, and came within the scope of his personal observations. The representatives of the merchants took a wider scope, and entered into general reasonings which would present themselves generally to the minds of others, and to the members of the Senate; this explanation is here made to account for the cause why the former testimony, which was very impressively given to the committee, will be stated in detail, and the latter be presented in a much more compressed and concise form.

Mr. Leiper, a respectable, wealthy, and extensive tobaccoist, and a proprietor also of some stone quarries, which furnish considerable building stone to the masons in Philadelphia, informed the committee, that he had been long and extensively engaged in a tobacco manufactory. He employs upwards of a hundred workmen, and the expenses of his business amount to about one hundred and sixty dollars a day; he believes that the dissolution of the Bank of the United States would produce a scene of distress in the seaports unprecedented in our country; that it would stop one-half of the master manufacturers and mechanics of the city; that already confidence was nearly destroyed; the debts due to manufacturers and mechanics were on open accounts, on which it was impossible to make collections to any amount of consequence; that the manufacturers and mechanics must, unless the state of things be altered, in a great measure stop their business and dismiss their workmen, and very many of them sacrifice their property, or lose their reputation and stop payment. Money, he said, could not be commanded a short time since, however good the security offered; he generally met his engagements easily; he had however shortly before leaving home occasion to remit to his correspondent at Richmond, where he was in the habit of having considerable quantities of tobacco purchased, fourteen hundred dollars; he had on hand, towards this sum, eight hundred dollars, and found considerable difficulty in procuring the re-

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its full discounts to the 4th of March next; and from the State banks, calculating on the forbearance of the Bank of the United States, having liberally issued new paper. The Bank of Pennsylvania, of which Mr. Leiper has been for many years a director, recently let out in one week eighty thousand dollars of new money; but if the Bank of the United States is not continued, this momentary relief would only extend the evil, as it would enlarge the liabilities, and still further increase the pressure and distress, and want of money which must then arise.

About seventeen years since, Mr. Leiper felt hurt at the conduct of the Bank of the United States in rejecting his paper; he left the bank and did his business elsewhere; since that time he had heard no complaints; he believed the concerns of the bank had been conducted fairly and liberally, and that discounts had been afforded to democrats as well as to federalists, to manufacturers and mechanics as well as the merchants.

Mr. Leiper, sir, has been a zealous and unwavering partisan of the persons now in power, since the adoption of the Federal Constitution, and his testimony will not probably be thought entitled to less weight on that account.

Mr. Grice, a respectable master ship carpenter, in large business, informed the committee that there are now building, in Philadelphia, 9,145 tons of shipping, a list of which he exhibited to the committee, a larger amount of tonnage than was ever before on the stocks in that city, and which, when finished, would cost about a million of dollars; that the whole of this shipping had been contracted for, except about one thousand tons; that the work was to be done and delivered in the course of the ensuing Spring; that there were employed in the city, in connexion with this business, about two thousand persons; that, owing to the apprehensions excited by the expected non-renewal of the charter of the Bank of the United States, great inconvenience had been already experienced by all classes of men in that city; that confidence was nearly destroyed; he could neither obtain money to pay his workmen or to carry on his business; that the former, unless a change took place, he must dismiss; that such had been the rapid growth of the navigation of the United States, it was difficult to procure good workmen, it was highly important to keep them in the country, and would be extremely disadvantageous to have them drawn out of it; that already, owing to the great increase of ship-building in Canada, agents were endeavoring to induce them to leave the United States for

able to fulfil their contracts; that, in consequence, the vessels would be left on the hands of the builders, who, on their part, would be unable to meet their engagements; and that the vessels must finally be sold for the most that they would fetch, probably at half their value, to the great loss, and perhaps ruin of the builders.

He had been himself largely in business, and had dealt for many years with the Bank of the United States; he had ever been treated liberally and kindly by it; he viewed himself indebted in a considerable degree for his present standing in society, to the accommodations he had received at that bank; still, in the course of his business, he occasionally took notes, at three, four, or six months, which, having a longer time to run than that at which the bank discounted, of sixty days, he found it convenient to convert into money; this hitherto he could always readily do, by carrying the notes to a wealthy merchant for whom he sometimes did business, and who hitherto had always been willing to discount them for him at bank interest; that being cut off from his usual discounts at the bank, he recently endeavored to avail himself of this resource, but found it wholly shut against him; that the gentleman, whose funds had hitherto appeared inexhaustible, would now afford no relief; confidence was destroyed; he knew not who was safe; he would make no new discounts, were the answers he obtained instead of money.

Mr. Grice stated, that this out-of-door discounting had been of great service to the manufacturers and mechanics, as they could frequently get money from it, when they could not obtain discounts at the banks; he had reason to believe that the amount of money thus employed in the city, at the legal and advanced rates of interest, was not less than seven millions of dollars; that this resource was now wholly cut off; they who had money would not loan it at any rate, and kept it on hand, either to secure it, or to derive an exorbitant advantage from the necessities and sacrifices of others. Mr. Grice believed, that, with very few exceptions, all classes in Philadelphia were in favor of the renewal of the charter of the bank; without it, he believed great numbers of persons would be rendered bankrupts, and general distress, at least among the manufacturers and traders, would ensue.

Mr. Vogdes, a master house-carpenter, in extensive business, informed the committee there were at this time building about five hundred brick houses in Philadelphia, two-thirds of which belonged to the mechanics of the city, who are in the habit of purchasing lots of land on credit

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Mr. Vogdes stated that he had been in the habit of receiving a moderate accommodation at the bank; he had ever been well treated by the bank; the directors had recently reduced his notes, but not in so great a degree as the State banks had done; that the expected termination of the charter of the Bank of the United States had greatly incommoded him, and others probably more; it had nearly suspended all business among the manufacturers and mechanics; it had stopped all sales of real estate, which he does not believe could now be effected at so high a rate within thirty per cent. as the sales could have been made at some time since; he had himself engaged to sell two houses, one for ten thousand dollars, the contractors for which had fallen from their engagements, under one small pretence or another, but really, as he believes, from the change of times, and the difficulty there existed in procuring money to meet the engagements even of the most wealthy persons; he himself had a note of one of the most respectable and undoubted men in the city; he offered it at three banks, but could not obtain a discount on it, and was finally obliged, in order to meet his engagements and pay his workmen, to sell it at one-and-a-half per cent. per month discount; he knew a broker who had notes to the amount of half a million of dollars lying by him for sale, which were considered good, but which he could not discount at any rate; he had a mortgage which he was constrained to sell at eighteen per cent. for twelve months; and his son, to pay his workmen, was obliged to have his note discounted on the best terms at which it could be done, which were at two per cent per month.

Mr. Vogdes is concerned in some rolling and slitting mills, which work about five hundred tons of iron annually. The proprietors have now on hand about one hundred tons of manufactured iron; commonly it is very saleable—at present, owing to the causes that have been mentioned, there is no demand for it. It is usual for manufacturers of iron to lay in their stocks when the importations are largest, generally late in the Autumn; this, several of them have done. The price is usually from \$108 to \$120 per ton—it has, however, fallen, from the pressure of the times, to eighty-five dollars per ton. This difference the manufacturers must suffer, which, in addition to the want of sale for their manufactures, and the other disadvantages under which they labor, if relief be not speedily obtained, must ruin most of those who have not large capitals to enable them to sustain the shock.

He does not believe that political considera-

had, the largest accommodation at the bank, is one of the best known and most leading democrats in the city. If the charter be not renewed, it is his opinion, the most serious and general distress will be the consequence.

Mr. Ord, a respectable rope manufacturer, stated to the committee that he worked up annually in his manufactory about one hundred tons of hemp; that he seldom wanted discounts—when he did, he obtained them with facility from the Bank of the United States, where he had been always well treated, and the business of which, he believed, had been conducted fairly and liberally, without reference to any party or political views whatever. He had hitherto been able to carry on his business with ease. He had large debts out, but now all confidence was destroyed; he could collect nothing—nor could he, without receiving his debts or borrowing money to meet his engagements: and, if times did not change, he must stop his business and dismiss his workmen, as must most of the other manufacturers of cordage in the city; that, at present, all business was at a stand—no sales could be effected. Hemp, which, shortly since, was at \$350 per ton, had fallen to \$250, without finding a market. He had recently bought some at \$200 per ton, which had sustained so small a degree of damage as to make it scarcely worth naming. Kentucky yarns were also unsaleable, although there were never so many ships on the stocks in Philadelphia, and the cordage for which must be principally manufactured from these yarns, which, but for the present state of things, would have risen rather than declined in price, as the vessels building would have been rigged in the ensuing Spring: that the cordage for them would have been wanted nearly at the same time, and could be made much sooner from yarns than from hemp, which would have given them the preference.

Mr. Ord fully concurs with the other gentlemen in the distress which would be produced in consequence of a dissolution of the charter of the bank.

Mr. Fœring, an intelligent and respectable currier of leather, informed the committee that he was in the habit of purchasing domestic and foreign hides to a large amount, which, after manufacturing, he sold to his customers in the interior, and to the boot and shoemakers in the city, generally on a credit of six months—which, however, frequently extended to twelve months before he received his money; he also ships considerable quantities of leather to other parts of the United States. There are about forty carriers in Philadelphia, and from two to three thousand

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debts for him, and passing the amount to his credit in Philadelphia, free of commission and the risk of remitting money. This, he believes, is generally done by the bank for the merchants, manufacturers, and mechanics, who may request it, and cannot be done by the State banks, because they have not branches in the different seaports of the United States, even if they had the disposition to do it. He has hitherto been able to command, with ease, as large an amount of money as his business required; at present, he cannot collect his debts, nor sell his stock, nor get discounts at the banks. Having failed to do it at the Bank of the United States he applied to a State bank, where he had made some deposits, but without success.

Mr. Fœring states that confidence is beginning to be impaired even in bank paper. He shortly since bought some hides of an opulent farmer, with whom he had dealt before, and who had always, without objection, received his payment in checks or bank bills; in the recent sale, he, however, declined at first to receive them—after some persuasion he did take them, but immediately went to the bank and demanded the money and took it home with him. Very many of the manufacturers and mechanics have accounts open with the Bank of the United States. He has found discounts more readily obtained there than at the State bank. When he left Philadelphia, he had no personal knowledge of any one director of the banks. He has heard no complaints for many years of the conduct of the bank, the affairs of which he believes to be liberally and honorably conducted. He believes the only consideration with them in discounting, is, whether the paper which is offered be good or bad, without reference to political principles or conduct of the party offering it.

Mr. Fœring asserts that, in Philadelphia, this is no party question; nearly all classes wish for a continuance of the bank. He does not believe there are a hundred master manufacturers and workmen in the city, who would not readily have signed the memorial had there been time for it. The subscription was very hastily filled up; for, although it contains the names of between five and six hundred master manufacturers and mechanics, and not one name of any other description, it would have included a large number of others. He carried round one of the memorials, and met with scarcely any one who refused to sign it. He does not believe one out of a hundred would object to it—it was not true that it was a party question—he was a democrat—the whole

the pressure, because they have been kept in employ, from the hope that business and confidence would be renewed, and money again become as plenty as it had been. Should this not be the case, the clamor and distress will then be heard and felt more universally and extensively.

This, sir, was the narration which was most impressively delivered to the committee. In the sentiments of the delegation there was no variance; all the members of it stated the anxiety and wish for the renewal of the charter, which pervaded nearly all ranks, in the city of Philadelphia. They united in the opinion that party considerations did not mingle with the question; that if the bank were permitted to run down, they should individually be great sufferers; that a scene of embarrassment and distress would overwhelm great numbers of the citizens; that the State banks could afford no relief, having already extended their discounts to the utmost limits of prudence, calculating on the renewal of the charter, or the forbearance of the Bank of the United States; if this were not obtained, the mischiefs they have described must be experienced, and the manufacturers and mechanics would fall the first sacrifices—for the merchants were in the habit, either by auction or otherwise, of selling their property for endorsed paper or collateral security, while the manufacturers and mechanics were left exposed on a single name, as it never was their usage to demand security, nor could they do it; were they to attempt it, they would give offence to their employers, and lose not only their present but all future business from them; and, of consequence, severely as the merchants would suffer by this unexampled stopping of business, the manufacturers and mechanics would feel it still more seriously, and numbers of them undoubtedly be ruined.

A delegation from the merchants of the city of Philadelphia, composed of very respectable men, and equally divided as regards an attachment to the two great political divisions in our country, were heard before the committee. They confirmed the representations that had been made as to the conduct of the bank—the absence of party influence from its management—the interest which was excited for its continuance—the stagnation of business, and the prostration of credit, and all habits of punctuality, which they believed would ensue from its dissolution. They also stated the serious loss it would occasion to the Government from the inability of the importers to pay their bonds, and their disbelief in the ability of the State banks to afford any permanent

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in circulation would immediately return upon the banks, when they would be unable to pay them; that, already, a considerable degree of suspicion was beginning to prevail of the security of bank paper; that there had been recently brought to the Bank of North America notes which had been issued twenty years before, and were supposed to have been lost, but which distrust had again brought to light. That neither navigation nor merchandise, nor exchange, however unexceptionable, could now be disposed of, except at great sacrifices; that flour had fallen in price from eleven to seven and three-quarters of a dollar, or eight dollars a barrel; that the house to which one of the gentlemen belonged, one of the first in point of standing in the United States, had recently received orders for the shipment of thirty thousand barrels of flour, which, from the uncertainty of finding funds, or procuring purchasers for bills of exchange, as heretofore, lucrative as was the commission, they had declined to execute. That it was the belief of these gentlemen that the dissolution of the bank and the collection of its capital at so unfortunate a period as the present, when so much property was otherwise absorbed and sequestered abroad, would be attended with extremely injurious consequences to the commercial, agricultural, and manufacturing interests, and to the revenue and prosperity of the country.

Sir, I shall neither trespass further upon your time, nor weaken this testimony by any comments of mine. I have now only to ask the indulgence of the Senate while I trouble them with a few additional observations, and those chiefly of a personal nature. Most certainly, sir, I am not acting under the bias of any sinister influence, or partiality, in advocating the renewal of the charter of this bank. I do not own a share of the stock, nor have I owned one for a considerable time past, nor do I owe to the institution a dollar. A few years since I was in the direction of one of its branches—the Bank in Boston—and I was left out of it with very little ceremony; not because I had abused the confidence reposed in me, for at the time I was left out of the direction I did not owe to the bank a single cent, either on my own account, or as surety for another, and my accommodation at the bank had never been large. I was then young, and possessed of but little property, and to enable me to exercise an independence of action, which I hope ever to preserve, I thought it proper to abstain in a considerable degree from accommodations to myself, in order that I might be enabled, if necessary, more freely to check undue accommodations to

hostility towards it. I believe it has been an extremely useful institution; and from a personal knowledge of the management of the affairs of the Branch Bank at Boston, I freely declare, that in my opinion it is impossible for the concerns of any moneyed institution to be conducted with more correctness, integrity, and impartiality—with more discretion towards the public, or greater safety towards the corporation which created it. I know the directors. They are honorable and estimable men—and at the head of the bank is a gentleman, an Essex junto man perhaps he may be called, who would grace any station in any country.

Sir, I have received from the most numerous branch of the Legislature of Massachusetts a request that I would oppose the renewal of the charter of this bank. I receive the request, sir, with all the deference and respect which is due from me to an expression of the opinion of that honorable body. It has induced me to examine my sentiments, to reweigh and deliberately reflect upon them. Having done this, and having come into office, without an intimation of a wish on my part for public life—without a single stipulation as to my political opinions, or an indication of the course I should pursue, I can only say, I should not act, on a question in which I considered the public interests as implicated, in opposition to the convictions of my own mind, deliberately formed, in consequence of the request, or if you please instruction, of the entire Legislature of the State which I have in part the honor to represent, much as I am bound both by duty and inclination to respect it, nor in consequence of the request or instruction of all the congregated legislatures on earth. I believe the renewal of the charter of the bank will avert many evils, and I shall vote for it.

It will probably be said, sir, that the distresses which will be incident on the dissolution of the bank have been greatly exaggerated, that a city in this vicinity is ready to meet the consequences, and to set them at defiance. Let it be recollected, that in the five New England States, a country for which it is both my pride and pleasure to avow a marked partiality, we have but one branch of the Bank of the United States, and that with a capital of only \$700,000. Surely, then, if a single city, with a population of thirty or forty thousand persons, can meet these consequences, we can sustain them—but we shall undoubtedly suffer much inconvenience, not however so great a degree of it, as any other district on the seaboard of the United States.

It is possible, sir, that apprehension may have magnified the evils which are to flow from the

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WEDNESDAY, February 13.

The credentials of NICHOLAS GILMAN, appointed a Senator by the Legislature of the State of New Hampshire, for the term of six years, commencing on the 4th day of March next, were read, and ordered to lie on file.

Mr. BRADLEY, from the committee to whom was referred, on the 21st January, the petition of Moses Austin and John R. Jones, made report.

Whereupon, the further consideration of the petition was postponed to the next session of Congress.

Mr. WORTHINGTON, from the committee to whom was referred the bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory, reported it without amendment.

Mr. W., from the committee to whom was referred the bill to extend the right of suffrage in the Indiana Territory, and for other purposes, reported it without amendment.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for the support of Government for the year eighteen hundred and eleven;" and the bill having been amended, the President reported it to the House accordingly. And on the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed the bill sent from the Senate, entitled "An act making a further distribution of such laws of the United States as respect the public lands," with amendments; in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act for the relief of Peter Audrain;" also, a bill, entitled "An act establishing navy hospitals;" in which bills they desire the concurrence of the Senate.

The two bills last brought up for concurrence were read, and passed to the second reading.

The PRESIDENT communicated a letter from Robert Beverly, stating that he had resigned his appointment to the office of President of the Union Bank of Georgetown; and the letter was read, and referred to the committee to whom was recommitted the bill to incorporate the Union Bank of Georgetown.

The Senate resumed, as in Committee of the Whole, the bill to establish the districts of Memphreymagog, of Oswegatchie, and of the White Mountains. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. GILMAN, from the committee appointed to

land, in the State of Maryland, to the State of Ohio; and the bill was read, and passed to the second reading.

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The Senate resumed the consideration of the bill respecting the Bank of the United States.

Mr. ANDERSON spoke in support of his motion to strike out the first section of the bill.

When he concluded, Mr. SMITH, of Maryland, remarking on the lateness of the hour, &c., and the probability that any gentleman wishing to speak could scarcely get through his remarks by the usual period of adjournment, moved a postponement of the subject till to-morrow, and to make it the order of the day for that day.—Carried—13 to 11.

THURSDAY, February 14.

Mr. CUTTS, from the committee, reported correctly engrossed the amendments to the bill, entitled "An act making appropriations for the support of Government for the year 1811;" and the bill was read the third time as amended, and passed.

Resolved, That this bill pass with amendments.

Mr. CUTTS, from the committee, also reported correctly engrossed the bill to establish the districts of Memphreymagog, of Oswegatchie, and of the White Mountains; and the bill was read the third time, and passed.

The bill in addition to the "Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio;" was read the second time.

The bill, entitled "An act for the relief of Peter Audrain," was read the second time, and Messrs. BRADLEY, GERMAN, and WORTHINGTON, were appointed the committee.

The bill, entitled "An act establishing navy hospitals," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. GREGG, LLOYD, and GOODRICH, were appointed the committee.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act making a further distribution of such laws of the United States as respect the public lands," and concurred therein.

Mr. BRENT, from the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Union Bank of Georgetown," reported them without amendment; and on motion, by Mr. BRENT, that the bill and amendments be

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amendments to the bill last mentioned, and concurred therein.

A message from the House of Representatives informed the Senate, that the House concur in the second amendment of the Senate to the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio; and to authorize the register and receiver of public moneys to superintend the public sales of land in the district east of Pearl river, and disagree to the other amendments. They have passed a bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed;" also, a bill, entitled "An act for establishing trading-houses with the Indian tribes;" in which bills they desire the concurrence of the Senate.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th of February 1791.

The question being to strike out the first section—

Mr. GILES.—Mr. President: It is with great reluctance that I find myself compelled to enter into the discussion of the subject now under the consideration of the Senate, but the observations which fell from the honorable gentleman from Georgia (Mr. CRAWFORD) were of such a character as to impose on me an irresistible obligation to present that view of the subject which has resulted from the best reflections I have been enabled to bestow on it. This obligation arises from the very high respect I entertain for the Legislature of the State I have the honor to represent, the great respect I feel for the gentleman who made the observations, as well as from the respect which is manifestly due to myself. In executing this unpleasant task, I labor under circumstances of peculiar embarrassment. This embarrassment arises from a conviction that the views of the subject now proposed to be exhibited will disappoint the expectations both of the opposers and the favorers of the bill, and that they will not be acceptable to either. I shall not, however, in this instance, depart from my invariable habit, when urged by duty to participate in debate before this honorable body, of disclosing in the most undisguised manner my real opinions upon the whole subject, free of any consideration of political difficulties or inconveniences which may consequently affect myself.

acquiesced in, because it tends to give the character of instability to the laws generally, and in my judgment, tends, also, to impair the sacred character of the laws, and, of course, to lessen their efficacy. In a Government like ours, where the laudable boast of every citizen is that he lives under a government of laws, and not of men, no subject should be touched with more caution and delicacy than one which questions the validity of the laws, lessens the confidence of the citizens in them, or impairs the obligation of obedience to them. Yet, sir, the course of observations I propose to make may have some of these tendencies, which I should extremely regret, and this apprehension, of course, produces embarrassment. Connected with this idea is another circumstance of embarrassment. I cannot help observing the inordinate zeal manifested by the opposers of this bill, evidently resulting from a belief that its rejection will lessen the powers of the Federal Government. Although it may be properly directed in the present instance, yet I think I have seen, and fear I may hereafter see the same spirit directed against some of the powers and proceedings of the Government which I have deemed indispensable to its own preservation, and its beneficial efficacy towards the people. It may, perhaps, be thought by some not becoming in me to say that I have not been an inattentive observer of the progress of this Government for twenty years, and more particularly, since the Republican party came into power. Some of the scenes through which I have passed, have produced an impressive influence on my mind. Such is the nature of the Government that its administration will vibrate from one principle to another, and it will always require great wisdom to keep its oscillations from wandering too far. Whilst those who preceded us in power endeavored to legislate into the Constitution an unnecessary constructive energy, leading to what has been called consolidation, it appears to me that we have taken too much the opposite course, leading to disunion and dissolution, by depriving it constructively of its legitimate, necessary, and proper powers. If this course should be unfortunately persevered in, it requires no spirit of prophecy to foresee that the Government will fall to pieces from the want of due energy in the administration of its legitimate powers, or that some extraordinary means must be resorted to for its resuscitation. When we cast our eyes abroad, and see the aggressions committed on our rights by all the belligerents, &c.; when we reflect that we cannot calculate upon a perpetual exemption from wars and other political calamities, the common lot of all nations; when we look at the

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extensive defenceless frontier, almost without limits, and see almost every year ambitious, enterprising individuals with hostile arms in their hands, raised in defiance of the authority of the United States, &c., &c., it appears to me wonderful that gentlemen should be delighted with curtailing the Constitutional powers of the Government and enfeebling its necessary energies. It is the more wonderful when we see the same gentlemen, who seem to consider every curtailment of power as an individual triumph to themselves, the most clamorous against the Government for not taking a manly attitude in repelling foreign aggressions, &c., &c. It appears to me, sir, we often see the same gentlemen, with the best and most patriotic intentions, indulging in these irreconcilable opinions. This is not the first time I have endeavored in a solemn and impressive manner to present this subject to the view of the party now in power. Hitherto my efforts have been unavailing.

Let me now indulge a hope that these reflections will meet with due consideration from those now entrusted by the people with the management of their dearest interests. If inducements to these observations were called for, surely, sufficient could be found during the Republican Administrations. I need only call your attention, sir, to the lessons afforded in the inefficacy of our measures to repel foreign aggressions, to assert our rights, and do ourselves justice, &c., and the causes which have led to this inactivity and feebleness of the Government. They will not be found in any defect of powers in the Constitution, because in that respect they are unlimited; it is because gentlemen, from various weak and groundless alarms and apprehensions, have been unwilling to exert the legitimate energies of the Constitution for those great objects. They have theorized and criticized themselves into such fears of the undue exercise of power, that they will not duly exercise it when indispensably necessary to the national character and interests. It is not my wish to extend the powers of the Constitution beyond the fair and candid interpretation of its meaning, because that, in my judgment, will be sufficient for all salutary purposes. I only regret the unwillingness of gentlemen to act up to that point, and the probable consequences resulting from that indisposition. I have, also, to unite with the gentleman from Georgia (Mr. CRAWFORD) in expressing my regret that in discussing this subject, both within and without the walls of Congress, and particularly in various Republican newspapers, an unwise spirit and zeal should have been manifested

May it not produce an injurious influence on all? The subject certainly presents fair grounds for a difference of opinion amongst individuals; and even amongst Republicans, without searching for the causes of this difference in corrupt motives. Why, then, upon this particular occasion, should the free exercise of opinion be hunted down by a spirit of intolerance or denunciation? It was this spirit which, more than any other cause, blasted the hopes of the republican principles in France, and, if indulged in to excess, will destroy it in any other country upon earth. In the due administration of a republican Government, truth and right alone ought to be sought after, and they can only be found by leaving the mind free to investigation, by guarantying to all its faculties the most perfect exemption from all terror and alarm. I hesitate not to say that, in my judgment, this spirit, if indulged in, will become more dangerous to the due administration of this Government, more deleterious to its proceedings, than the adoption of any one single measure, however unwise or impolitic—even than the renewal of the charter of the Bank of the United States for twenty years, which now seems to be the cause, or the pretext for exciting and stimulating this unfortunate spirit. I am ready to admit, too, that I have never seen this spirit displayed with more positive assertion and bold denunciation upon any question than upon the present. This circumstance induced the gentleman from Georgia (Mr. CRAWFORD) to indulge himself in severe and most sensitive invectives upon this topic, and, in my judgment, not without cause. But it would have afforded me great pleasure, if the gentleman could have prevailed on himself to have viewed these proceedings “in the calm light of mild philosophy,” and not to have presented to the Senate an example in himself, in appearance at least, of the passions and prejudices he so justly reprehended in others. I think I do not mistake myself, Mr. President, when I profess to enjoy the most entire exemption from this baneful spirit of intolerance—when I profess to feel the greatest respect for the gentlemen who differ from me on this occasion, and for their motives, when I profess to express all possible indulgence and forbearance towards the opinions of those gentlemen, and feel, at the same time, conscious that I shall stand in need of the same liberality myself, from both sides of the question. Indeed, sir, I would not deign to accept a victory in argument, founded solely upon the ascription of improper motives to my antagonist. It is my intention to give the arguments of the gentlemen on the other side of the question the same

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latterly become the fashion to eulogize the Constitution of the United States; and that whenever he heard lavish encomiums applied to it, he could not help apprehending mischief." I acknowledge I could not comprehend the bearing of this remark upon the question under discussion. I, sir, have long been in the habit of venerating the Constitution, and have often expressed my admiration at the wisdom of its provisions; and I really had hoped that I might have been indulged in these sentiments and prepossessions, and even the expression of them upon proper occasions, without exciting in the mind of any gentleman apprehensions of mischief; nor can I divine what species of mischief the gentleman apprehends from that cause. Mr. President, when we look over the whole world known to us; when we particularly cast our eyes over that part of it, with which we have the most intimate relations; when we see the rapid strides which despotism is making over the whole human race; when we observe the various and powerful means now in use to rivet its immovable dominion upon mankind; when we reflect that the Constitution of the United States now affords the only practical experiment upon the republican principle, and the only and last hope for the preservation and extension of the liberties of man; is it wonderful or alarming, that we should feel and express some partiality and even veneration for an instrument of so peculiar a character? or should even endeavor to teach others to venerate, to cherish, to support it? An instrument, whose provisions at least exempt us from the general scene of despotism, and may eventually extend their blessings to the whole human race? Or if, in dwelling upon the wisdom and importance of its provisions, we might pass over some possible defects without scrutinizing them with an hypercritical eye, might not the omission be indulged without producing animadversion or censure? Sir, we all venerate the republican principle. I know the gentleman from Georgia (Mr. CRAWFORD) does; nor do I pretend that my devotion to it is greater than his; but, sir, I have given the greatest attention to the observations of the gentleman upon the Constitution; and I can now say that my veneration for the instrument, and admiration at the wisdom of its provisions, are not at all impaired nor diminished, notwithstanding the gentleman's criticisms, &c. I will now, Mr. President, endeavor to exhibit the general character of the Constitution; to point out the mode for its correct interpretation, and apply it to the subject now under consideration. In doing so, I propose

to me, that the classification and definition of powers is as well arranged as human wisdom could devise. I know that nothing is perfect which is the work of man; that no language is capable of perfect definition. But, as far as definition can be drawn from language, I conceive the Constitution exhibits as perfect an example as is in existence. In the next place, the gentleman remarked that there was a number of cases in which Congress had departed from the particular enumerated powers in the Constitution, and had resorted to implication or construction for the derivation of its powers. The remark is perfectly correct, and I am very ready to admit that there is no such thing as carrying into effect enumerated powers in any instrument whatever, without the intervention of certain derivative and implied powers. But if the gentleman had succeeded in showing that there had been aberrations by the Congress of the United States from the enumerated powers of the Constitution, would he think it correct to use those aberrations as precedents for still further aberrations? Ought they not rather to be considered as mementoes on the part of Congress to induce them to tread with more care, and, if they find that their former errors could not be supported by a fair and candid construction of the Constitution, to restrain the laws within its wholesome provisions? Certainly that is the use to which the history of errors presented by the honorable gentleman from Georgia ought to be applied. But, before I proceed to examine the subject with more accuracy, I cannot avoid to express my surprise at another observation which fell from the gentleman. The gentleman observed, that the argument drawn from the distinction between ends and means was "incomprehensible;" and he went so far as to call it "nonsensical jargon." It is not only comprehensible to me, sir, as I conceive, but, in my opinion, is the only way in which a just construction of the Constitution is to be attained. This results from the peculiar nature and organization of the instrument. Permit me here to endeavor to illustrate my idea by a reference to the Constitution itself. The Constitution is an instrument which grew out of the situation of the United States at the time of, and preceding its adoption; and to show that the Constitution recited the great objects of its formation, and then prescribed the means for carrying them into effect, I beg leave to refer to a part of the instrument itself. The preamble, like all other preambles, was designed to express the objects of the instrument or the ends to be effected by its provisions. "We

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what mode, or by what *means* are they to be effected? The preamble tells you, sir, "by establishing this Constitution for the United States of America." That is the mode in which these great *ends* are proposed to be effected, and the body of the instrument prescribes the *means*, which were deemed necessary and proper to the effectuation of these *ends*. This subject will be better understood by throwing the mind back to the period of time when this Constitution originated, and reviewing the peculiar political situation of the United States then, and for some time antecedently thereto.

At the time, and antecedently to the establishment of the present Constitution, the existing State governments were in possession of all the powers of sovereignty, subject only to feeble and inefficient articles of confederation, without the means of executing their own will, and resting for its execution solely on requisitions upon the respective States, which might either comply or refuse to comply with such requisitions at their discretion. A non-compliance was almost invariably the result of State deliberations, and hence the feebleness of the old Confederation. The present Constitution was adopted as the remedy for this great and alarming evil. Without it, disunion and ruin to the States would have been the inevitable consequence, because, upon actual experiment, the States were found utterly incompetent to the due administration of all the powers of sovereignty intrusted to their management. The reason of this incompetency was, that some of the most important powers of sovereignty inherently possessed a geographical influence beyond the geographical limits of the several States individually, and their jurisdiction could not transcend their geographical limits. Of this description of powers is the power to declare war, &c., to regulate commerce, &c., and all the other enumerated powers of the Constitution. In consequence of the conflicting systems adopted by the several States in relation to some of these powers, which were then in practical operation; particularly in the conflicting regulations of commerce, the States were getting into the most serious collisions, &c. The formidable evils necessarily growing out of the state of things required a formidable and competent remedy. The great subject for the contemplation of every reflecting mind in America was, what that remedy should be? The wise framers of our admirable Constitution, after great deliberation, conceived and executed the only practicable expedient. It consisted in separating the powers of

own laws in relation to these enumerated powers, without any dependence upon requisitions from the respective State governments for this indispensable object. The idea was a grand one, and executed with an admirable simplicity, and the most consummate wisdom. Hence it appears that the great object of the framers of the Constitution was to establish a General or Federal Government, and to confer on it all the powers of sovereignty, which in their nature and character possessed an influence co-extensive with the United States, and to reserve to the previously existing State governments all the powers of sovereignty of a more local character, and whose influence did not extend beyond the geographical limits of the States respectively, and therefore could be rendered completely subservient to State jurisdiction and management. These are the means prescribed in the Constitution for effecting the ends expressed in the preamble. To the administrators of the General Government the framers of the Constitution have said: We give to you all the powers of sovereignty of a general character; and to the administrators of the State governments, they have said: We reserve to you all the powers of sovereignty of a local character. I verily believe, that if those various Governments should be administered with the wisdom with which this separation of powers was made in the body of the Constitution, the people of the United States will not be disappointed in the great and interesting objects proclaimed in its preamble. But I cannot help expressing some apprehensions, that from an incorrect understanding of the Constitution, from an unwise spirit of jealousy, a disposition to strip the Government of its necessary and proper energies, &c., the administrators of the Government may not only disappoint the just expectations of the people in this respect, but may lead to incalculable political mischiefs and disasters. This arrangement was in my judgment indispensable to the preservation of the republican principle, and all-important to the dearest interests of the people of the United States. As far as the practical experiment has been carried, it has been attended with the happiest effects. I still hope for the best in its future operations; but I also hope I shall be pardoned for expressing some fears, arising from various manifestations of imbecility in measures relating to our internal as well as external concerns. From this short history of the origin of the Constitution, and the causes which produced it, it evidently appears, that the General or Federal Government is in its

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10th articles of amendments to the Constitution are as follow :

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Now, sir, can language be more explicit than this, in declaring that this charter contains certain enumerated powers, and that all not enumerated are reserved to the States or to the people? There is one article reserving rights to the people, and afterwards another article reserving them to the States and to the people. While on this subject, I beg leave to read a clause in the Constitution, which I find among the enumerated powers, and which has been construed by some, as intended to convey a general grant of powers among the enumerated powers. "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." The words "and to provide for the common defence and general welfare," have by some been considered as conveying a general grant of power. Nothing is necessary to show that this is not a fair and correct construction of the Constitution, but reading it with attention. These terms contain no grant of power whatever, but are used to express the ends or objects for which particular grants of power were given. Paying the debts and providing for the common defence and general welfare are great objects, intimately connected with the particular grants of power which are given for their effectuation; and without these particular grants of power, it would not have been possible for Congress to effect them. The framers of the Constitution have simply selected some of the objects expressed in the preamble, and declared that to effect them, and to pay the debts of the United States, were the considerations which induced them to give to Congress the "power to lay and collect taxes," &c. Thus taxes are to be laid, &c. "to pay the debts, and to provide for the common defence and general welfare." Could they have chosen a more appropriate phraseology? The plain language to Congress is: "You shall have power to lay and collect taxes, to pay the debts," &c., and to provide for the common defence and general welfare, or, in other words, for the purpose of paying the debts, &c., and of providing for the common defence and general welfare. These words do not contain a general grant of

show that there is not a single instance quoted, but which is deducible from a fair and correct interpretation of the express words of the Constitution, giving them their common and appropriate meaning.

The first instance presented to our consideration by the honorable gentleman from Georgia (Mr. CRAWFORD) of the exercise of a power by Congress not enumerated in the Constitution, was the erection of light-houses. The gentleman from Massachusetts, (Mr. LLOYD,) to whose dispassionate observations I listened with great pleasure, superadded the instance of the erection of custom-houses. On these, both of the gentlemen seemed to place great reliance, as cases in point with the one under consideration. Both these powers I conceive are given to Congress by the express words of the Constitution; but if I should be mistaken in this idea, they are certainly comprehended as incidental and subservient to, or in other words, "necessary and proper" for carrying into effect some of the enumerated powers.

The express words of the Constitution give to Congress the power "to lay and collect taxes, duties, imposts, and excises," &c.; "to regulate commerce with foreign nations among the several States, and with the Indian tribes;" "to exercise exclusive legislation in all cases whatever, &c., over all places purchased by consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." From these clauses of the Constitution, taken in connexion with each other, I think Congress possesses the power to erect light-houses and custom-houses by the express words of the Constitution; for both of these descriptions of houses must necessarily be included within the term "needful buildings," or the only construction which is at all applicable to these cases is, that needful buildings is the general term, and light-houses and custom-houses are particular instances or examples under the general term; or, if I may be so allowed to express my ideas, needful buildings may be considered as the genus, of which light-houses and custom-houses are particular species. The reason with the framers of the Constitution for using this general term is obvious. It was, because it was impossible for them to foresee all the particular species of needful buildings, which might become necessary to the salutary operations of this Government in the course of its complicated and due administration; they therefore wisely left that subject to the discussion of Congress, restrained and limited, nevertheless, by

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of the States respectively. But if this term "needful buildings" had not been expressed in the Constitution, I should not hesitate to admit with these gentlemen that the erection of light-houses and custom-houses might properly be deduced from the power to lay and collect taxes, duties, &c., which are particular grants of power enumerated in the Constitution. Because custom-houses are appropriately necessary to the collection of duties, and have always been deemed indispensable for that object, as are light-houses to the due regulation of commerce.

These two powers are indispensably connected with, and subservient to, particular enumerated powers, and are therefore among the means which are necessary and proper for their effectuation; and as such are given to Congress by the express words of the Constitution, which are: Congress shall have power "to make all laws 'which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.'" From this course of interpretation, the gentlemen, reasoning from a supposed analogy, have asked, if Congress can derive the right to erect light-houses and custom-houses from their necessary agency in effectuating the particular powers to which they are said to be appendant or appurtenant, why may it not in the same way derive the right of granting charters of incorporation for the same objects? Or, in other words, if Congress can constitutionally erect custom-houses for the purpose, or as the necessary means of collecting duties; why may it not establish a bank for the same object, &c.? The question is admitted to be a fair one; and if a clear distinction cannot be made in the two cases, it will be admitted either that Congress may constitutionally establish a bank, or that it has heretofore transcended its powers in erecting custom-houses, &c. A clear and most obvious distinction appears to me to exist in the cases suggested by the gentlemen to be analogous, arising from the striking difference in the nature and essential character of these powers. A custom-house is in its nature incidental and subservient to the collection of duties. It is one of the common, necessary, and proper means to effect that end. It is believed that in no commercial country in the world are duties collected without them. Besides, the erection of custom-houses does not involve in it the exercise of any other higher or consequential powers. The same remarks will apply to light-houses, as among the

ers, to which it has been said to be analogous. Besides, does granting a charter of incorporation to a bank involve no other higher or consequential power than merely erecting a needful building for collecting duties, &c.? It certainly does. It involves the power to grant charters of incorporation generally; and in this respect, principally, its character is essentially different from both of the powers cited by the gentleman. The power to grant charters of incorporation is not an incidental, subordinate, subservient power; it is a distinct, original, substantive power. It is also susceptible of the clearest definition; and not being among the enumerated powers, it seems to me that Congress can have no fair claim to its exercise in any case. If Congress had been expressly authorized to grant charters of incorporation generally, then granting a charter of incorporation to a bank would have been an instance, or among the means, of carrying into effect that enumerated power, and would have been as much connected and affiliated with it as is the erection of custom-houses with the collection of duties; but the power to grant charters of incorporation generally not being expressly given in the Constitution, no particular instance involving the exercise of that power can be inferred by a fair and candid interpretation of the instrument. I do not mean to exaggerate the consequences which might result from an assumption of the power to grant charters of incorporation, &c. It is sufficient for me to say that it is a power of primary importance; that it involves as many incidental powers in its exercise as any one of the enumerated powers; that it is equal, if not paramount, to any; and, therefore, in my judgment, cannot be assumed by fair construction as incidental and subservient to any; and, of course, not as among the necessary and proper means for carrying any into effect. In fact, in its nature it does not in the smallest degree partake of the derivative, incidental character. It is original, substantive, distinct in itself, and susceptible of the plainest definition. Hence, whilst I am willing to admit that a power, which is in its nature incidental and subservient to any enumerated power, and also among the necessary and proper means for carrying it into effect, may be exercised by Congress without the express words of the Constitution, I should be very unwilling to admit that Congress should also exercise a power neither incidental or subservient to any of the enumerated powers, nor among the necessary and proper means for carrying any into effect: still less should I be inclined to this ad-

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agement of the States, might as easily be assumed by Congress as incidental to some one of the enumerated powers, as the assumption of the power to grant charters of incorporation, which I conceive was, for the same reason, left to the management of the States. I believe no gentleman will contend that Congress can, under any candid construction, go so far in relation to those powers; nor do I see how it can in relation to the power of granting charters of incorporation.

I have not overlooked the observation, sir, made by gentlemen to destroy the effect of this course of reasoning, to wit: that the passing every law is an act of sovereignty; that to pass a law to erect a light-house, is as much an act of sovereignty as to pass a law to lay and collect, &c., or to grant a charter to a bank, &c. In fact that there are no degrees of sovereignty. Without entering into this reasoning it will be sufficient to show its inapplicability to my argument to observe, that I have not grounded my distinctions upon any suggested difference in the degrees of sovereignty, but upon the clear and obvious difference in the nature and character of the powers upon which this sovereignty, &c., is intended to operate, &c.

The gentleman from Georgia (Mr. CRAWFORD) observed, that the clause in the Constitution, last read, "Congress shall have power to pass all laws which shall be necessary and proper," &c., had been considered by some as entirely inoperative, but that he thought it a clause of great importance, &c. In this opinion I entirely concur with the gentleman; I consider it the most important clause in the Constitution. It is in my judgment the true key for unlocking the meaning of all the other clauses. The former confederation did not possess the means necessary and proper for carrying into execution its own powers. It was dependent upon the State Legislatures for that purpose; and it was too important a difference in the organization of the present and former Government to be left to construction. It was therefore expressed, to declare the true character of the present Government, and to proclaim its sovereignty upon all the subjects of the enumerated powers. But, sir, the most important bearing of this clause appears to me to be the designation of the department, which should be the ultimate depository of all the power vested in the Government by the Constitution. Thus Congress is declared not only to have power to pass all laws which shall be necessary and proper for carrying into execution the powers particularly confided to its management, but "all other

operation, as the necessary and proper means for carrying into effect any of the enumerated powers.

This brings me to consider the observations of the gentleman (Mr. CRAWFORD) upon the fourth article of the Constitution in the following words:

"Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof.

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

"A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The gentleman observed, that this article contained no grant of power whatever; it was merely declaratory of certain principles, which ought to be left to the States to carry into effect; yet Congress had passed laws in relation to several of these subjects, &c., and, of course, transcended the limits of the Constitution, or rather had legislated upon subjects not enumerated, &c. To these observations I would reply, that I do consider these clauses as investing the Government generally with the exercise of all these powers, although the particular department intended for their exercise is not here designated; but by reading these clauses in connexion with the clause before read, it will be found that Congress is intrusted with the execution of these powers.

Congress shall have power to pass all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, &c. It is then clear that other powers were vested, and intended to be vested in Congress, besides the foregoing enumerated powers; all the powers in the fourth article, I presume, to be strictly of this description. That this is the understanding of the article is evinced by the concurrent opinions of the General and State Governments in those respects.

The difference of opinion therefore between

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Governments, taken collectively, as forming one complete sovereignty; he then referred to a clause in the Constitution, which he conceived excluded the State governments from the right to grant bank charters, and thence inferred the right in the General Government, &c. Although I have full confidence in the opinions generally expressed by that gentleman, I cannot concur with him in this mode of deriving power to the General Government. It is directly repugnant to the principles of construction I have just suggested, and therefore I cannot yield my assent to it.

The tenth section of the first article says, "no State shall enter into any treaty of alliance or confederation, grant letters of marque and reprisal, coin money, emit bills of credit," &c. The particular terms of this section selected to exclude the States from incorporating banks are these: "No State shall emit bills of credit." The gentleman supposes that a bank bill is a bill of credit, and therefore that the States cannot establish an institution to issue a bill of credit. Our ideas differ as to the meaning of the term, "bills of credit." As to the argument of the gentleman, that he who does an act by another does it by himself, it does not apply to the present case; for if we recur to the charters of incorporation, we shall find that a particular fund is fixed, and that this fund only is answerable for the redemption of the notes. The argument of the gentleman would as well apply to every common note given by one individual to another, because the States as much issue bills of credit by protecting promissory notes as by authorizing banks to issue such notes. In case of notes given by individuals, they become the property of him to whom they are payable; the drawer is responsible for the amount, and the State enforces the payment. In that case, too, the whole property of the drawer is pledged for the payment. In the case of bank bills, nothing is pledged but the sum specified in the charter. The real meaning of this clause, therefore, I understand to be to prevent the emission of bills, the payment of which is to be made by the States themselves, similar to the old Continental paper money; for that was evidently in the contemplation of the framers of the Constitution when they very wisely denied the power of issuing such bills to the States.

The gentleman from Georgia next read the first section of the third article of the Constitution. I should not take up the time of the Senate in noticing it, but that the construction which I then put upon it differs from that which he gave as an universal admission. The gentleman

has, since that time, been strengthened and confirmed by further reflection. I do not know how the gentleman's argument can apply to the case under consideration, unless he meant to show that the decision in that respect made by Congress was unconstitutional. My opinion is, that it was Constitutional, and that Congress might constitutionally modify and change the Supreme Court in the most essential point; and permit me here to protest against the usual mode of construing the Constitution by analogy. Instead of examining the expressions of the Constitution itself to ascertain its meaning, we are often referred to certain principles borrowed from the British jurists. Thus we are often referred to the fundamental principle of the separation of departments, &c., the independence of judges, &c., although neither of these terms are to be found in the Constitution; and the principles, although correct in themselves as general principles, are subject in practice to material qualifications and limitations; and this is particularly the case in the Constitution. It appears to me as easy to ascertain the true meaning of the words used in the Constitution as the meaning of these or any other terms; and the error in this mode of reasoning generally arises from the misapplication of the terms to the subject in question; or, in other words, when reasoning from analogy, in recollecting the resemblances and overlooking the differences in cases supposed to be analogous. To ascertain the true meaning of the Constitution, therefore, I have always had reference to its own words, and discarded all reasoning from its analogy to anything else. By referring to the clause respecting the judicial department just read, and taking it in connexion with the clause which declares that Congress shall have power to pass all laws which shall be necessary and proper for carrying into execution all the powers, &c., "vested in any department," &c., it will appear obvious that Congress might, according to the express words of the Constitution, establish the judicial department as it has done, and from time to time alter or modify it at its discretion, &c.; and if Congress thought proper to increase or lessen the number of judges of the Supreme Court, or to increase or lessen the duties to be performed by them, I would ask, where is the Constitutional prohibition? I see none. Congress can designate the duties of the court and the compensation of the judges. They may take away the duties, and, of course, also, the compensation, and why? Because we find the service and compensation inseparably connected, and the one made the con-

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all the injunctive part of the Constitution. But I do not know how the gentleman's reference to this clause could affect the Constitutional question in the present case.

I have thus far endeavored to explain and reconcile to the Constitution those laws passed by Congress which the gentleman has considered contrary to the Constitution.

I will now proceed to some other arguments of the gentleman. He observed that the bank law had been in existence for twenty years, during which time there had been an acquiescence in the law. I concur in that opinion. I do consider that all the instances presented by the gentleman; to wit: authorizing the bank to lend money; the extension of its right of establishing branches to New Orleans in 1804; and also the act to punish counterfeiting bank paper in 1807, ought to be considered as acts of acquiescence by the Government in the constitutionality of that law.

I have given the most respectful attention to the arguments used by the opposers of the bill to account for this acquiescence, and to obviate the reasoning drawn from it by its friends; and whilst I give the gentlemen in opposition great credit for the ingenuity of the argument, I cannot concur in the reasoning upon which it is founded. I understand it to be bottomed upon the idea, that the bank was in the nature of a contract; and that under its influence, private rights became vested in individuals; and that, therefore, the Government was bound to carry it into effect, and that a refusal to have done so, or the repeal of the act would have been a violation of good faith, &c. &c. The honorable gentleman from Tennessee (Mr. ANDERSON) observed, that the Republican Administration, viewing this law in the nature of a contract, from a sacred regard to the preservation of good faith, passed these several acquiescing laws, &c. &c. The observation of the gentleman, so far as it respected the manifestations of good faith on the part of the Republicans, was certainly both just and pertinent. The Republicans have certainly fulfilled, with the most scrupulous fidelity, all the public engagements of their predecessors as well as their own; yet I do not believe that these several acquiescing laws were passed under the pressure of any obligation for the preservation of good faith.

I concur with the honorable gentleman from Georgia (Mr. CRAWFORD) in the conclusions he drew against this argument of the imperious obligation due to contracts under the influence of this law: but not precisely for the reasons he assigned for them. The gentleman observed, that

given was certainly a sufficient consideration to make the contract binding on the part of the United States. But I have several objections to this argument urged against the bill; in the first place, parties, and a consideration, are not only essential to the formation of a contract, but parties capable of contracting. If the bank law be unconstitutional, then it cannot, as I conceive, give a Constitutional capacity to the artificial person created by it to contract. An unconstitutional corporation has no more a Constitutional or legal capacity to contract, than a married woman or even an idiot; each equally laboring under legal disabilities. The argument, therefore, which is used to show that the bank law is unconstitutional, and at the same time gave a Constitutional capacity to an artificial person to contract, appears to me to be in the nature of a *felo de se*, it destroys itself. Hence I conclude, that if the law be unconstitutional in itself, it cannot confer on an artificial person a legal capacity to contract, and that any contract made under its influence would be void for the want of that legal capacity. In the next place, if it be urged that Congress is bound to carry into effect all contracts in which individual rights or interests are concerned; then Congress may in this way derive to itself all the powers it may want for an object, instead of getting them by the shorter route of the assumption under the terms common defence and general welfare; and in a much more exceptionable mode; because it may not only thus acquire any power whatever, but may also acquire it in perpetuity. Hence it appears to me that if gentlemen should succeed in establishing this argument, they would lose more by the admission, than they would gain by limiting the powers of Congress to the enumerations of the Constitution. In fact that argument would be rendered worse than nugatory by this admission.

But I have a third objection to this argument of the obligation of the contract, more formidable than either of the preceding. It appears to me to be an argument against a fact. I know it is so, as it respects myself. I have been present when most of these acquiescing laws have been passed, and I have no recollection of having been influenced in the votes I gave in their favor by a view of the sacred obligations due to contracts; nor do I recollect to have heard this consideration urged by any gentleman at the time of passing these several laws. In fact at the time of passing the law for punishing counterfeiting the bills of the Bank of the United States, I recollect no other consideration operating on me, than the in-

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at the time. These remarks, however, will certainly not apply to those gentlemen who voted under the suggested impressions. The general principle operating with me, was this—that all laws passed by Congress must be considered as Constitutional until they are repealed. Their unconstitutionality is a good reason, and the best reason, for their repeal; but so long as they remain in the statute book unrepealed they must be considered Constitutional, and in my judgment no tribunal on earth can question their validity; nor can I admit that they are subject to the censorial power claimed by the Judiciary. I am, therefore, disposed to admit the acquiescence in the bank law, and to give the gentlemen in favor of renewal all the advantage of the precedents quoted by them for that object, considered under all the circumstances of the case; and to what do they amount? Will they go so far as to preclude the present Congress from exercising its sound discretion upon the Constitutional question, when brought directly to its consideration? and when at the time of the several precedents quoted, it was only collaterally or incidentally considered, if considered at all? Certainly not—and if in exercising the right of reviewing the Constitution, the present Congress should be convinced that a former Congress had exceeded its limits, is it not bound by every conscientious consideration to correct the error, and to bring the laws within its wholesome provisions? It appears to me not only to be the right, but the indispensable duty of Congress to do so.

I will now proceed to animadvert upon some important observations made by two gentlemen upon the right of the Legislatures of the respective States to instruct the Senators of the United States.

Acting, as I now am, Mr. President, under the influence of instructions from the Legislature of the State I have the honor to represent, I feel myself imperiously called upon to notice some observations, which fell from the honorable gentleman (Mr. CRAWFORD,) and the honorable gentleman from Pennsylvania (Mr. LEIB,) in relation to that subject.

The gentleman from Georgia (Mr. C.) feelingly complains of the tendency of instructions from the great States, to embarrass the proceedings of this Government, by giving an undue bias to the deliberations, and restraining the free exercise of opinion in this honorable body, &c. &c. Without particularly adverting to the emphasis laid by the honorable gentleman upon the term "great States," I agree in general with the gentleman

land, although great in virtues and resources, is not so great in point of population and extent of territory as to have obtained the denomination of a "great State." Indeed, sir, the right to instruct Senators has not been exclusively acted upon by the great States, generally so called, during the operations of this Government; but, I admit, has been more frequently resorted to by them.

The gentleman from Pennsylvania (Mr. LEIB) after having read his instructions, informed the Senate, that he represented one of the great States, which had given instructions, and that he felt himself absolutely bound by them in the vote he should give on the present question; that he considered himself the representative of the Legislature of Pennsylvania; that it was the principal and he the agent, and he was bound to carry into effect its will, &c., &c. However high may be the respect I generally entertain for the opinions of the honorable gentleman (Mr. L.) I am compelled to dissent from him in these opinions. I feel myself compelled, too, to express this dissent; lest it might be supposed, that being similarly circumstanced with that gentleman on the present question, my conduct might be influenced by similar considerations.

I do not consider myself the representative of the Legislature of Virginia, although I feel the most unbounded confidence in its wisdom and patriotism, and the highest respect for its proceedings. I consider myself the representative of the people of the United States, delegated to that character by the Legislature of Virginia. As an evidence of the correctness of this opinion, I have only to remark, that the laws which I contribute to pass, in the character of Senator, are co-extensive with the United States, and operate upon the people thereof in their individual capacities. They do not operate upon the State Legislatures in their corporate characters, except in cases where in that character they are connected with the Federal Government, or instrumental in the execution of some of its powers. Still less do they operate upon the Legislature of Virginia exclusively; of course I cannot consider myself as the representative of that Legislature exclusively, as its agent, and bound in all cases to execute its will upon this floor, &c. &c. It is not necessary, nor do I mean to question the right of the State Legislatures, so long practised upon, to instruct the Senators of the United States, chosen by them respectively; because that might produce an unmeaning and useless discussion about terms; but I mean to inquire, whether the exercise of the right imposes a Constitutional obliga-

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right to disobey his instructions, is most obvious to my understanding, from the single consideration, that a law passed by a vote in disobedience of instructions is as valid as a law passed by a vote in obedience to instructions. Obedience to instructions is no where commanded. Nor is disobedience of instructions any where prohibited by any written law or constitution. The act of disobedience does not subject the disobeying Senator to any punishment whatever; of course the disobedience of instructions violates no political duty, and, if the instructions be addressed only to the discretion of the Senator, his disobedience of them violates no moral obligation; provided he exercises a sound and conscientious discretion, founded upon the best reflections he is able to bestow upon the subject thus presented for consideration. I therefore conclude, if the State Legislatures possess the right to instruct Senators of the United States, chosen by them respectively, it is an incomplete right, without a remedy, or with a very remote one. The influence, or the true obligation of instructions, therefore, arises from the expression* of opinion by the State Legislatures; and the very high respect which is at all times due from the Senator to the expression of such opinion by the Legislature of the State he represents. A respect which I feel so strongly,

*It is presumed that this was the sense in which the Legislature of Virginia viewed this subject in 1800. In the memorable instructions of that day, the Legislature prefaces them with a declaration to the Senators of the United States, that they deem it important 'to express their opinions,' upon the subject of instructions. Then follows a course of reasoning to convince the Senators of the propriety of the opinions thus expressed. The instructions in this case therefore were clearly addressed to the discretion of the Senators, and not considered as imposing a positive command.

In 1808, the Legislature of Virginia instructed the Senators of that State in the Congress of the United States, to use their best endeavors to obtain amendments to the Constitution of the United States, which in effect would make the Senators of the United States recallable at the pleasure of the Legislatures of the respective States. It is presumed that the Legislature did not consider its instructions mandatory, and that the instructed Senator was bound to obey, or, in other words, had no right to disobey. Because if the Senator was bound to obey the instructions of the Legislature, it might instruct him to resign, upon the same principle which would authorize instructions how to vote, and if the instructions be mandatory, the instructed Senator would be bound to resign as well as vote conformably thereto—of course such an amendment to the

that I never would depart from an opinion thus expressed, unless in a clear and indisputable case; but the point I contend for is not injunctive, compulsory, or mandatory. That it is not in the nature of a command, but addressed to the discretion of the Senator instructed; taking into due consideration all the circumstances of the case connected with such instructions.

It may be said that the Senator is responsible to the Legislature, which appoints him at the expiration of his term of service; this is true, if applied to the individuals who may compose the Legislature at that time; but it does not vary my conclusion; because every act that he performs, whether instructed or not, is an act of responsibility; and the most which can be inferred from this idea, is, that it increases his responsibility, and would naturally produce caution; but cannot affect his right to disobey.

It cannot escape attention, that I purposely avoid all observations upon the rights of the people, as the legitimate source of all power, in their highest sovereign capacities, and upon whom all laws passed by their Representatives operate in their individual characters, to instruct all their Representatives, which I presume, if practicable, would not be denied by any; because such a discussion would be unnecessary upon the present question. The inquiry I am making respects the right of one set of Representatives of the people, chosen for certain purposes, to give mandatory instructions to another set of Representatives of the people chosen for other purposes, without any written law to that effect, and by the mere force of implication. If it should be contended that the Senators of the United States are the Representatives of the Legislatures of the respective States, and not the Representatives of the people of the United States in their individual characters, contrary to the express provisions of the Constitution, then this absurd conclusion would follow; that the people of the United States are governed by laws, not passed by their Representatives, but by the Representatives of their State Legislatures, in their corporate characters, contrary to the fundamental principles of all Republican Governments, and directly opposite to the universal expectations of the whole American people.

But, sir, let us resort to the Constitution itself, and see the actual relations which do there exist between the Legislatures of the respective States, and the Senators of the respective States, composing the Senate of the United States.

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present all the relations between the Legislatures and Executives of the respective States, and the Senators of the United States; and in what do they consist? Certainly in nothing but in choosing the Senators; when that is done, all the functions of the Legislature and Executive are at an end *quo ad* that particular subject. I see no influence given either over the votes or the acts of the Senator during the six years for which he is elected. During that period, the Senator is intrusted with the execution of all the powers and authorities conferred upon him by the Constitution, at his own discretion, subject only to his Constitutional responsibility at the expiration of his term of service. But it may be said, that the right to instruct arises from the necessary connexion between the constituent and the Representative. To this it may be replied, that this upon the general principle is a constructive or an implied right; but I doubt its application, at least in its full force, to this particular case. The relations in this case between the constituent and the Representative are expressly prescribed by the Constitution; neither of them can claim any original or native rights; and no construction nor implication ought to be inferred against its provisions, nor inconsistent with its obvious meaning. Besides, if this mere implication be the only foundation of the right of the State Legislatures to instruct Senators of the United States, it would equally apply to the State executives, when from adventitious causes they exercise the right of appointment; a right I believe not generally admitted, even by the State Legislatures; especially in the sense contended for, that the instruction is mandatory and conclusive. Will it not also apply to the connexion between electors and the President of the United States? I find, by the second article of the Constitution, that the President of the United States is to be chosen by electors appointed by the several States, and they of course become the immediate constituents of the President. But what would be thought of their inferring a right from this connexion to instruct the President of the United States in what manner to execute the powers and duties of his office? And what would be the probability of a concurrence in such instructions from the different electors of the several States? The President's responsibility is tested at the expiration of every four years; that of a Senator at the expiration of every six years; and I believe that the changes of the individual electors in the several States are not greater at the expiration of every four years, than are the changes in the in-

described only by the corporate term. It is believed that a pretension of this kind by the electors of the President of the United States would not be tolerated even by the State Legislatures. But is there nothing expressly contained in the Constitution of the United States which would afford a stronger implication against the exercise of this right by the State Legislatures, than the implication from which the right is said to be derived?

I think, sir, that the very first words of the Constitution, after the preamble, afford strong evidence of the exclusion of the right of the State Legislatures to give mandatory instructions to the Senators of the State. They are the following: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Now, sir, upon the principle of mandatory instructions from the State Legislatures to the Senators of the United States, will Congress exercise all the legislative powers granted by the Constitution? Will not the State Legislatures essentially participate in the exercise of the legislative powers? If they can command and direct the votes of one distinct and essential branch of Congress upon all legislative subjects, will it not be a material participation in the legislative powers granted exclusively to Congress? Could they not thus embarrass the whole proceedings of Congress? Could they not render all deliberations on the part of the Senate unnecessary? Could they not thus deprive the Government itself of all energy and efficiency? Surely the wise framers of the Constitution could never have anticipated, still less could they have sanctioned, the assertion of such principles!

These considerations bring me to examine the tendency of the principle contended for upon the character and proceedings of the General Government; and, sir, had it not been for the opinions I entertain on this question, I should not have given the other the critical examination I have attempted; but, sir, such is my opinion of the injurious effects of the practice of giving instructions by the Legislatures of the States to the Senators of the United States, that I deem it my indispensable duty to give the subject a full and candid investigation; although in doing so, I know I shall have to encounter strong and honorable and perhaps insuperable prepossessions against my opinions; particularly in the State I have the honor to represent. I wish it to be understood, however, sir, that in the discharge of my duties on this floor I shall always obey the

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the great points of difference between the present Government and former confederation.

Under the former confederation, the States voted in their corporate characters; and if the Representatives of any one of them were equally divided in opinion, the State gave no vote. Under the present Government, each Representative votes in his individual character, and upon his individual responsibility. The words of the Constitution are "and each Senator shall have one vote." Under the former confederation, the requisitions of Congress operated upon the States in their corporate characters. Under the present Government, the laws of Congress operate upon the people of the United States in their individual characters.

The former Congress did not possess the means necessary and proper for executing its own will upon the subjects confided to its deliberations. The present Congress possesses power to carry into effect its own will or its laws, upon all subjects confided to its management. These are among the great points of difference in the character and powers of the two Governments. The former Government fell to pieces from the feebleness of its organization, and principally from the want of power to execute its own will, from its dependence upon the State Legislatures for the execution of its requisitions.

Now, sir, if the State Legislatures possess the right to give mandatory instructions to their Senators respectively, I see very little difference in the character of the present and former confederation; for there can be very little difference in the practical effect of the principle of requisitions by Congress upon the State Legislatures, which may be rejected at their discretion, and the principle of the State Legislatures making requisitions by mandatory instructions upon one essential branch of Congress; which must be obeyed by that branch in exclusion of all discretion whatever. The feebleness and incongruity of the latter principle is, in my opinion, at least equal to the first, and if admitted and indulged in, will as certainly terminate in the ruin and dissolution of the Government. Another injurious tendency of mandatory instructions, is, to add to the locality of feelings and opinions in the deliberations of this honorable body, already too strong by native and habitual prepossessions and predilections. Another injurious tendency of mandatory instructions results from their influence in restraining the free exercise of opinion in the deliberations of this honorable body: and if generally practised upon would render all deliberations unnecessary. The

Senators from each State being bound to pursue the mode pointed out to them by the Legislature of the State they respectively represent. Indeed such is my opinion of the tendency of the principle of mandatory instructions, that I should regret very much to see it established and frequently resorted to. The practice, in my opinion, would eventuate in producing feebleness and inefficiency in the General Government; collision among the several States; and finally disunion and dissolution of the General Government.

Sir, I now am, and always have been, attached to an efficient Government—a Government strong enough to repel external violence, and to insure domestic tranquillity, and to secure the person and property of the individual citizens. The Federal Government I conceive to be an indispensable instrument in the effectuation of these great objects. I have often wondered at seeing gentlemen of learning, of talents, and of patriotism, rejoicing at the curtailment of its necessary powers. They seem to me to enjoy the triumph of every event of this kind, as much as if they had plucked a laurel from the brow of their most inveterate enemy and placed it round their own; not being sufficiently impressed, in my judgment, with the importance of the Federal Government to the preservation of their own personal safety, and the security of their property, &c.

The gentleman from Georgia (Mr. CRAWFORD) was pleased to say, that in giving instructions to the Senators upon this occasion, the great States had been influenced solely by motives of avarice. I regret the remark; and I think, if the gentleman would dispassionately reconsider it, he would also regret it. I think he would admit, that the Legislature of Virginia could not have acted under the influence of such a motive. And, sir, I feel a pride and a pleasure in standing here to repel the imputation, and to do justice to the real motives of the Legislature. I am at a loss to determine what are the particular circumstances which could have induced the gentleman to ascribe the motive of avarice to the Virginia Legislature on this occasion. It is true, that a branch of the Bank of the United States with the trifling capital of \$300,000 is established at Norfolk; and that a branch of the Bank of Virginia is also established there. But these circumstances furnish no possible motive of avarice to the Virginia Legislature. The amount of capital and its effects, are quite unimportant to the State. Norfolk itself, although equally respectable and important with any other portion of the State of the same extent and population, is not sufficient to excite

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spectively. That this conviction alone was the inducement to their instructions will appear obvious from the instructions themselves, which I beg leave to read :

"The General Assembly of Virginia view with the most serious concern the late attempts which have been made to obtain from Congress a renewal of the charter incorporating the Bank of the United States.

This Assembly is deeply impressed with the conviction that the original grant of that charter was unconstitutional, that Congress have no power whatever to renew it, and that the exercise of such a power would be not only unconstitutional, but a dangerous encroachment on the sovereignty of the States. Therefore,

Resolved, That the Senators of this State, in the Congress of the United States, be instructed and our Representatives most earnestly requested, in the execution of their duties, as faithful representatives of their country, to use their best efforts in opposing by every means in their power the renewal of the charter of the Bank of the United States.

JANUARY 22, 1811.

Agreed to

ROBT. TAYLOR, S. S.

JAS. BARBOUR, S. H. D.

A copy from the original,

Test: JAS. PLEASANTS, C. H. D."

It manifestly appears from these instructions that a conviction of the unconstitutionality of the original bank law was the sole inducement with the Legislature for giving them; and here, sir, permit me to express a hope, that the arguments I have urged in favor of this opinion will amply justify the Legislature in the honest conviction under which it has acted. Permit me also to remark, sir, that while I cannot admit that instructions in any case possess a mandatory influence over the Senator; and while I think the practice of giving instructions in general, and upon general points of policy, is attended with injurious effects upon the proceedings of this Government, &c.—yet, in a case of rights reserved to the States, the Legislatures not only have the right, but it is their duty to express their opinions to, or instruct, their Senators (for I will not cavil about terms) to resist the usurpations of the General Government. It is the mildest way in which their agency can be brought to bear upon all such cases; and this being a case in point, the instructing Legislatures stand perfectly justifiable in the conduct they have adopted in that respect. I hope, sir, that I have rescued the Legislature of Virginia from the unmerited imputations thrown against it, inadvertently I am sure, by the gentleman from Georgia (Mr. CRAWFORD;) and have shown that it has been influenced by the purest

of the renewal of the bank charter, the friends of the bill claim the whole weight of the argument; whilst some of its opposers tacitly acquiesce in, and others faintly oppose this lofty pretension. Notwithstanding these circumstances, I entertain very great doubts upon that point. There appear to me to be considerations of great weight against it; perhaps more than sufficient to counterbalance those urged in favor of it. Both the gentlemen in favor of the bill relied very much upon the suggestion, that the prosperity of the United States was attributable in a very great degree, indeed almost exclusively, to the establishment and operation of the Bank of the United States. I believe, sir, nothing is more difficult than to ascertain the true causes of the wealth and prosperity of nations; very few writers have been successful in the investigation of that intricate subject; but the adventitious establishment and operation of the Bank of the United States are amongst the last causes to which I would ascribe their rapid increase of wealth and their general and extensive prosperity. It is not to any adventitious, local causes we are to look for these universal effects. If I were to look for their real causes, I should expect to find them, in the genius and wisdom of political institutions; in permitting every citizen to employ his faculties at his own discretion, for the attainment of property; and securing to him the perfect and uncontrolled enjoyment of it when acquired. Each citizen, thus acquiring wealth and prosperity to himself, would of course accumulate the general stock, &c. These inestimable blessings have also been attended with signal and peculiar advantages, with an exemption from wars, and all other great political calamities, &c., &c., whilst that portion of the world with which we have the most extensive commercial relation has been, and still is, unhappily involved in wars almost interminable and of the most disastrous characters; from which, till latterly, our commercial fellow citizens have derived advantages almost incalculable, and of course added greatly to the general stock of wealth and prosperity, &c. To these and such like causes, permanent in their character, and universal in their operation, are properly to be ascribed the general wealth and prosperity of the nation; and not to the adventitious circumstance of the creation of a bank; still less should we rely upon this cause, when we reflect that the bank is local in its operations; whilst the scene of prosperity is universal through the United States, pervading those parts of them where the operations of the bank are scarcely known, and

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mentioning it would excite invidious feelings in some of the members of this body. I do not know to whom the gentleman meant to apply his allusion. I can only say for myself, that I think the report is entitled to a respectful attention—that I would give it the same respect, that I would show to a report from the head of any other department. It has always been my invariable habit, to form my opinions from the facts contained in the documents before me, regardless of the authors of them; nor could I ever condescend, in the discharge of my duty upon this floor, to permit personal considerations to intermingle with, still less bias my deliberations. But, sir, I see nothing very operative in the Secretary's report. He says in substance that he has found in practice the Bank of the United States to be a convenient instrument for facilitating the management of the fiscal concerns of the nation; which I believe is generally admitted. It is also true that the Secretary has found it convenient, and has ventured to express his opinion in favor of the constitutionality of the bank bill; and I am willing to give credit to the opinion, for what it is worth. No gentleman would say it ought to preclude the free exercise of opinion by others; and I acknowledge, upon this particular subject, I am not inclined to give it the weight to which that gentleman's opinions would be entitled upon other occasions; because he has uniformly manifested too much zeal for the success of this bill, to leave the mind perfectly free in the investigation. He has for a long time used such various and incessant means to effect the renewal, that his mind must be in some degree divested of that coolness and impartiality which are indispensable to a critical and correct analysis of the Constitution.

The gentleman from Georgia (Mr. CRAWFORD) observed, that it was better to have a bank dependant on the United States, than to increase the dependence of the government upon the State banks, over which the Government of the United States cannot exercise any control. I would submit to the honorable gentleman, upon further reflection, to say, whether the remark is applicable to the bill under consideration. After the charter is once granted, I see no control reserved to the Government. I fear the controlling influence would be on the other side. If, however, there must be an United States' Bank, I would prefer one of that character to the present project. I have too much confidence in Congress to be alarmed at the influence of a bank under its direction; and should greatly prefer it to one whose direction should be under the influence of Brit-

of bank paper circulation already too great; and it would not be surprising to me, if a knowledge of this fact alone should lessen its credit. Its excess has certainly become an evil, and instead of being still further extended, ought to be curtailed. But the most objectionable circumstance to this excess of circulation of bank paper, I conceive to be its inevitable tendency to exclude the specie circulation, which it substitutes. A specie circulation is certainly greatly preferable to paper circulation; it has an intrinsic value in itself, whereas the paper circulation has no intrinsic value, and its currency depends upon the value of the specie circulation which it represents. Of course a circulation of value is excluded from the country, and substituted by one of no value; and in times of war or other great political calamities, when the Government would stand most in need of the aid of banks for its support, their capacity to lend would be the most diminished, if not entirely destroyed, by the absence of specie capital, which the circulation of bank paper has banished from the country. I presume the gentleman would not consider the banishment of a circulation of intrinsic value, and substituting it with one of a representative value only, amongst the prosperous effects resulting from the operation of the Bank of the United States.

The gentleman from Massachusetts (Mr. LLOYD) favored the Senate with the perusal of his notes of the evidence of the democratic merchants and manufacturers of Philadelphia. I paid great attention to this information, derived from practical men, and should be sorry to misconceive it; and certainly could not disrespect it. But there were two facts, stated and assented to by all of them, which seem to me irreconcilable with the opinions expressed by those gentlemen, respecting the real causes of the present scarcity of money, and the distresses consequent upon that scarcity. The first fact was, that the bank in Philadelphia discounted precisely as much now, and proposed to do so till the 4th of March, as it heretofore had done. The other fact was, that the paper had not depreciated, but was still in good credit. The complaint was not that the paper, when obtained, was not of good credit, and would not answer their purposes; but that they could not obtain it. Now, sir, I cannot conceive how the scarcity of money, and consequent distress, can arise from any apprehension of putting down the bank, when precisely the same sum of money is now put into circulation by it as was formerly done, and the money itself in good credit. The pecuniary distresses complained of, in my judgment, are not properly at-

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viduals. There is another fact to show that the alarm at present is greatly exaggerated, or is certainly greatly beyond any real cause for it. It will appear from the Secretary's report, that the debts due to the Bank of the United States are only \$600,000 less than they were twelve months ago; of course the discounts of the whole institution could only be lessened to that extent, and it is impossible for me to believe that the payment of that trivial sum, compared with the whole mercantile capital of the United States, could be seriously felt by the merchants generally; especially as they have been twelve whole months in paying it. If the payment of that sum in twelve months could produce all the distresses we hear of, I hope we shall hear no more of our immense mercantile wealth, and the great extension of our mercantile capital. Yet this is the only real cause for all the clamor and alarm circulating through the country. I think, with some confidence, that the consequences of putting down the Bank of the United States must be artificially exaggerated, or very much misapprehended; and this opinion is grounded upon the consideration that it is directly repugnant to the interest of the bank to cause the apprehended distresses, and its directors certainly have the power to avoid the production of them. And I think that when a calculation is made, and a conclusion drawn upon the idea that a moneyed institution will pursue its own interest, it may fairly be said to be grounded on a solid consideration. I cannot see how putting down this institution can materially affect the pecuniary abilities of the nation; its actual funds for discounting will be nearly the same; the position of them only will be changed; they will find their way into the State banks, and their ability to discount will be increased proportionably to the increase of their deposits. Nor am I at all alarmed at the suggestion, that eleven millions of dollars will be drawn out of the country by the British capitalists, because it will not be their interest to do so. Their dollars are worth more here than in Great Britain. If drawn there, they would soon be melted down into their depreciated paper circulation. They might also draw bills to advantage, so that I doubt whether an additional dollar will be shipped from the country, in consequence of the rejection of this bill. Certainly they will not to any great extent.

I will now, Mr. President, suggest a few considerations, which I acknowledge have great influence on my mind in deciding on the expediency of the proposed renewal of the charter of the Bank of the United States. I do it with

can obtain interest only on a loan of money—the bank is authorized to obtain interest on a loan of credit, and that interest, according to the reported dividends of the Bank of the United States, has been eight per cent. per annum; and it is probable it will continue quite as high. This advantage is not confined to the credit arising from the money owned by the stockholders; but also that which arises from the deposits of money belonging to other people—nor is this all; it extends to the credit which arises from the enormous deposits of public money. It appears from the Secretary's report, that seven tenths of the whole stock are held by British capitalists; perhaps the proportion is greater, but covered in some instances by American names. It also appears, that they will have enjoyed the full term of these incorporated advantages on the 4th of March next; of course, a refusal to renew them cannot in any respect be considered as a departure from good faith. Now I can see neither the policy nor expediency of extending these favors and advantages voluntarily to these foreigners for twenty years in exclusion of our own citizens; at least to the extent of the foreign capital now invested in the institution. I think, sir, at the same time, I can see very strong and peculiar grounds of objection to the policy and expediency of this measure. My objection arises from the enormous British influence, which notoriously pervades this country; and, I believe, affects the proceedings of Government, so seriously, that it can hardly be said to be independent. I verily believe, that this baneful influence has already driven the Government from measures which the best interest of the nation required.

Whilst we find Great Britain claiming exclusive dominion on the ocean, possessed of an immense mercantile capital and pecuniary resources almost inexhaustible, we find many of her subjects intimately connected with our citizens in commercial pursuits. We find many mercantile houses in that country associated with mercantile houses in this, so much so, that when we hear of great failures in Liverpool, we may look out for squalls and breakers at New York. Not only has this influence operated on the people generally, but I state it as my firm conviction that it has operated and now operates on the Government of the United States. Is this mercantile connexion the only source of influence? Not at all, sir; the influence accruing to Great Britain from the identity of language, from reading British books, from the precedents derived from her systems of jurisprudence, incul-

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in the hands of foreigners? Take away this influence, and Great Britain would stand nearly on the same footing in relation to us, that any other nation does. I have not overlooked the observations of the gentleman from Georgia, in relation to this subject. He observed, if there be any influence, it is reciprocal; that these foreigners, having funds in the United States' Bank, will use their best exertions to procure a respect for our rights, or to keep the two nations at peace. I believe they will; but whilst they may have an influence in this country, they will have none in their own. The influence of seven millions of dollars will not be felt in that country, where three hundred millions are annually expended; although it will have much weight here. There is then no reciprocation of influence, as the gentleman supposes. I would ask the gentleman, how this influence has been heretofore exerted in practice upon the two Governments? Has it been able to induce Great Britain to relax in her hostility against us in the smallest degree? Has it prevented, or repealed the Orders in Council, &c.? Has it saved from impressment one American seamen? Did it prevent the attack upon the Chesapeake? In short, has it restrained the hostile arm of Great Britain from any hostile act, &c.? On the other hand, how has it acted on our Government? Has it not been instrumental in paralyzing every effort of resisting these hostilities? Has it not cooled us down to a state of humble submission, &c.? These are its natural practical effects, and will continue to be so. I am very far from wishing to interrupt the harmony and friendship between the United States and Great Britain, provided they can be preserved on honorable terms, but not by submission brought about by British influence. I find I have trespassed too long on the indulgence of the Senate; but I beg to be permitted to reply to two observations, one of which has been much relied on; and I will pass over all others.

It has been asked by one gentleman whether this was a very propitious time for putting an end to this establishment. I admit that it is not; that very serious embarrassments attend our commercial operations. The sequestrations of France, the British Orders in Council, as well as the interruptions from other countries, must have had a very serious effect on our commerce. I regret that this measure is called for, at so inauspicious a time. I am willing to admit that if we enforce the non-intercourse the pressure will not be lessened. But are these circumstances so inauspicious, as to warrant us in passing over solemn Constitutional objections? Are they such as to warrant us in still further increasing

tors, &c. The gentleman from Georgia (Mr. CRAWFORD) feelingly complained, that this had artificially been made a party question by the course adopted in its discussion. I fear the remark is too true; that this discussion partakes too much of that character. I have endeavored to exclude every idea of that nature from the observations just made. I always regret to see any question, in discussion before this honorable body, assume the character of parties. It is always unwise in the party in power artificially to create party questions. It reminds me of the silly boatswain, who, not content to sail easily along before a pleasant breeze, puts up his whistle for a storm, which, when it arrives, upsets his vessel, and sends her to the bottom. It is our duty to examine every question solely on the ground of right and wrong. In this country, that party will keep longest in possession of power, which shall do right and administer justice regardless of all other considerations. I hope all my efforts have heretofore tended to produce these ends. It has been at all times my object to search out right, and vigilantly to pursue it, regardless of incidental consequences. Influenced solely by these considerations, I have endeavored to give this subject the most impartial investigation. I have done so with the most respectful attention to the motives and reasonings of other gentlemen. I know that I stand much in need of the same liberality and indulgence myself, which, I hope and doubt not, I shall receive in return.

When Mr. GILES had concluded, the Senate adjourned.

FRIDAY, February 15.

The Senate proceeded to consider their amendments to the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the Register and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearl river," disagreed to by the House of Representatives; and, after progress, the further consideration thereof was postponed until tomorrow.

The two bills brought up yesterday for concurrence were read, and passed to the second reading.

On motion, by Mr. ANDERSON, the Senate resumed, as in Committee of the Whole, the bill for the relief of David Porter, a commander in the Navy of the United States; and, on motion, it was agreed that the consideration thereof be

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

Mr. CLAY.—Mr. President: When the subject involved in the motion now under consideration was depending before the other branch of the Legislature, a disposition to acquiesce in their decision was evinced. For although the committee who reported this bill had been raised many weeks prior to the determination of that House on the proposition to re-charter the bank, except the occasional reference to it of memorials and petitions, we scarcely ever heard of it. The rejection, it is true, of a measure brought before either branch of Congress, does not absolutely preclude the other from taking up the same proposition; but the economy of our time, and a just deference for the opinion of others, would seem to recommend a delicate and cautious exercise of this power. As this subject, at the memorable period when the charter was granted, called forth the best talents of the nation—as it has, on various occasions, undergone the most thorough investigation, and as we can hardly expect that it is susceptible of receiving any further elucidation, it was to have been hoped that we should have been spared an useless debate. This was the more desirable because there are, I conceive, much superior claims upon us for every hour of the small portion of the session yet remaining to us. Under the operation of these motives, I had resolved to give a silent vote, until I felt myself bound, by the defying manner of the arguments advanced in support of the renewal, to obey the paramount duties I owe my country and its constitution; to make one effort, however feeble, to avert the passage of what appears to me a most unjustifiable law. After my honorable friend from Virginia (Mr. GILES) had instructed and amused us with the very able and ingenious argument which he delivered on yesterday, I should have still forborne to trespass on the Senate, but for the extraordinary character of his speech. He discussed both sides of the question, with great ability and eloquence, and certainly demonstrated to the satisfaction of all who heard him, both that it was Constitutional and unconstitutional, highly proper and improper to prolong the charter of the bank. The honorable gentleman appeared to me in the predicament in which the celebrated orator of Virginia, Patrick Henry, is said to have been once placed. Engaged in a most extensive and lucrative practice of the law, he mistook in one

ors, and you, gentlemen of the jury, I have been stating to you what I presume my adversary may urge on his side. I will now show you how fallacious his reasoning and groundless his pretensions are." The skilful orator proceeded, satisfactorily refuted every argument he had advanced, and gained his cause! A success with which I trust the exertion of my honorable friend will on this occasion be crowned.

It has been said by the honorable gentleman from Georgia (Mr. CRAWFORD) that this has been made a party question, although the law incorporating the bank was passed prior to the formation of parties, and when Congress was not biassed by party prejudices. [Mr. CRAWFORD explained. He did not mean that it had been made a party question in the Senate. His allusion was elsewhere.] I do not think it altogether fair to refer to the discussions in the House of Representatives, as gentlemen belonging to that body have no opportunity of defending themselves here. It is true that this law was not the effect, but it is no less true that it was one of the causes of the political divisions of this country. And if, during the agitation of the present question, the renewal has, on one side, been opposed on party principles, let me ask if, on the other, it has not been advocated on similar principles? Where is the Macedonian phalanx, the opposition in Congress? I believe, sir, I shall not incur the charge of presumptuous prophecy, when I predict that we shall not pick up from its ranks one single straggler! And if, on this occasion, my worthy friend from Georgia has gone over into the camp of the enemy, is it kind in him to look back upon his former friends, and rebuke them for the fidelity with which they adhere to their old principles?

I shall not stop to examine how far a representative is bound by the instructions of his constituents. This is a question between the giver and receiver of the instructions. But I must be permitted to express my surprise at the pointed difference which has been made between the opinions and instructions of State Legislatures, and the opinions and details of the deputations with which we have been surrounded from Philadelphia. Whilst the resolutions of those Legislatures—known, legitimate, Constitutional and deliberative bodies—have been thrown into the back ground, and their interference regarded as officious, these delegations from self-created societies, composed of whom nobody knows, have been received by the committee with the utmost complaisance. Their communications have been treasured up with the greatest diligence. Never did the Del-

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gress their sentiments, it is much more highly so for the unauthorized deputies of fortuitous congregations.

The first singular feature that attracts attention in this bill is the new and unconstitutional veto which it establishes. The Constitution has required only, that after bills have passed the House of Representatives and the Senate, they shall be presented to the President for his approval or rejection, and his determination is to be made known in ten days. But this bill provides, that when all the Constitutional sanctions are obtained, and when according to the usual routine of legislation it ought to be considered as a law, it is to be submitted to a new branch of the Legislature, consisting of the President and twenty-four Directors of the Bank of the United States, holding their sessions in Philadelphia, and if they please to approve it, why then it is to become a law! And three months (the term allowed by our law of May last, to one of the great belligerents for revoking his edicts, after the other shall have repealed his) are granted them to decide whether an act of Congress shall be the law of the land or not! An act which is said to be indispensably necessary to our salvation, and without the passage of which, universal distress and bankruptcy are to pervade the country. Remember, sir, that the honorable gentleman from Georgia has contended that this charter is no contract. Does it, then, become the representatives of the nation to leave the nation at the mercy of a corporation? Ought the impending calamities to be left to the hazard of a contingent remedy?

This vagrant power to erect a bank, after having wandered throughout the whole Constitution in quest of some congenial spot whereupon to fasten, has been at length located by the gentleman from Georgia on that provision, which authorizes Congress to lay and collect taxes, &c. In 1791, the power is referred to one part of the instrument; in 1811, to another. Sometimes it is alleged to be deducible from the power to regulate commerce. Hard pressed here, it disappears, and shows itself under the grant to coin money. The sagacious Secretary of the Treasury in 1791 pursued the wisest course—he has taken shelter behind general, high sounding, and imposing terms. He has declared, in the preamble to the act establishing the bank, that it will be very conducive to the successful conducting of the national finances; will tend to give facility to the obtaining of loans, and will be productive of considerable advantage to trade and industry in general. No allusion is made to the collection of taxes. What is the nature of this Government?

is of a nature not transferable by mere implication. It is one of the most exalted attributes of sovereignty. In the exercise of this gigantic power we have seen an East India Company created, which has carried dismay, desolation, and death throughout one of the largest portions of the habitable world. A company which is, in itself, a sovereignty—which has subverted empires and set up new dynasties—and has not only made war, but war against its legitimate sovereign! Under the influence of this power, we have seen arise a South Sea Company, and a Mississippi Company, that distracted and convulsed all Europe, and menaced a total overthrow of all credit and confidence, and universal bankruptcy. Is it to be imagined that a power so vast would have been left by the wisdom of the Constitution to doubtful inference? It has been alleged that there are many instances, in the Constitution, where powers, in their nature incidental, and which would have necessarily vested along with the principal power, are nevertheless expressly enumerated; and the power "to make rules and regulations for the government of the land and naval forces," which, it is said, is incidental to the power to raise armies and provide a navy, is given as an example. What does this prove? How extremely cautious the Convention were to leave as little as possible to implication. In all cases where incidental powers are acted upon, the principal and incidental ought to be congenial with each other, and partake of a common nature. The incidental power ought to be strictly subordinate and limited to the end proposed to be attained by the specified power. In other words, under the name of accomplishing one object which is specified, the power implied ought not to be made to embrace other objects, which are not specified in the Constitution. If then you could establish a bank to collect and distribute the revenue, it ought to be expressly restricted to the purpose of such collection and distribution. It is mockery, worse than usurpation, to establish it for a lawful object, and then extend it to other objects which are not lawful. In deducing the power to create corporations, such as I have described it, from the power to collect taxes, the relation and condition of principal and incident are prostrated and destroyed. The accessory is exalted above the principal. As well might it be said that the great luminary of day is an accessory, a satellite to the humblest star that twinkles forth its feeble light in the firmament of heaven!

Suppose the Constitution had been silent as to an individual department of this Government,

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great operations of credit, circulation, and commerce. Like the Virginia justice, you tell the man, whose turkey had been stolen, that your book of precedents furnishes no form for his case, but then you will grant him a precept to search for a cow, and when looking for that he may possibly find his turkey! You say to this corporation, we cannot authorize you to discount—to emit paper—to regulate commerce, &c. No! Our book has no precedents of that kind. But then we can authorize you to collect the revenue, and, while occupied with that, you may do whatever else you please!

What is a corporation such as the bill contemplates? It is a splendid association of favored individuals, taken from the mass of society, and invested with exemptions and surrounded by immunities and privileges. The honorable gentleman from Massachusetts (Mr. LLOYD) has said that the original law, establishing the bank, was justly liable to the objection of vesting in that institution an exclusive privilege, the faith of the Government being pledged that no other bank should be authorized during its existence. This objection he supposes is obviated by the bill under consideration; but all corporations enjoy exclusive privileges—that is, the corporators have privileges which no others possess; and if you create fifty corporations instead of one, you have only fifty privileged bodies instead of one.

I contend that the States have the exclusive power to regulate contracts, to declare the capacities and incapacities to contract, and to provide as to the extent of responsibility of debtors to their creditors. If Congress have the power to erect an artificial body and say it shall be endowed with the attributes of an individual—if you can bestow on this object of your own creation the ability to contract, may you not, in contravention of State rights, confer upon slaves, infants, and females covert, the ability to contract? And if you have the power to say that an association of individuals shall be responsible for their debts only in a certain limited degree, what is to prevent an extension of a similar exemption to individuals? Where is the limitation upon this power to set up corporations? You establish one, in the heart of a State, the basis of whose capital is money. You may erect others whose capital shall consist of land, slaves, and personal estate, and thus the whole property within the jurisdiction of a State might be absorbed by these political bodies. The existing bank contends that it is beyond the power of a State to tax it, and if this pretension be well founded, it is in the power of Congress, by chartering companies, to dry up the whole of

them the capacity to hold land, in derogation of the local law? I imagine this will hardly be insisted upon; and yet there exists a more obvious connexion between the undoubted power, which is possessed by this Government, to sell its land, and the means of executing that power, by increasing the demand in the market, than there is between this bank and the collection of a tax. This Government has the power to levy taxes—to raise armies—provide a navy—make war—regulate commerce—coin money, &c. It would not be difficult to show as intimate a connexion between a corporation, established for any purpose whatever, and some one or other of those great powers, as there is between the revenue and the Bank of the United States.

Let us inquire into the actual participation of this bank in the collection of the revenue. Prior to the passage of the act of 1800, requiring the collectors of those ports of entry, at which the principal bank or any of its offices are situated, to deposit with them the custom-house bonds, it had not the smallest agency in the collection of the duties. During almost one moiety of the period to which the existence of this institution was limited, it was noways instrumental in the collection of that revenue, to which it is now become indispensable! The collection, previous to 1800, was made entirely by the collectors; and even at present, where there is one port of entry, at which this bank is employed, there are eight or ten at which the collection is made as it was before 1800. And, sir, what does this bank or its branches when resort is had to it? It does not adjust with the merchant the amount of the duty, nor take his bond; nor, if the bond is not paid, coerce the payment by distress or otherwise. In fact it has no active agency whatever in the collection. Its operation is merely passive; that is, if the obligor, after his bond is placed in the bank, discharges it, all is very well. Such is the mighty aid afforded by this tax-gatherer, without which the Government cannot get along! Again, it is not pretended that the very limited assistance which this institution does in truth render, extends to any other than a single species of tax, that is duties. In the collection of the excise, the direct and other internal taxes, no aid was derived from any bank. It is true, in the collection of those taxes, the farmer did not obtain the same indulgence which the merchant receives in paying duties. But what obliges Congress to give credit at all? Could it not demand prompt payment of the duties? And in fact does it not so demand in many instances? Whether credit is given or not is a matter merely

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the bank will furnish him with a check, or bill, to make the remittance, which any merchant would do just as well.

I will now proceed to show by fact, actual experience, not theoretic reasoning, but by the records themselves of the Treasury, that the operations of that department may be as well conducted without as with this bank. The delusion has consisted in the use of certain high-sounding phrases, dexterously used on the occasion. "The collection of the revenue"—"The administration of the finance"—"The conducting the fiscal affairs of the Government," the usual language of the advocates of the bank, extort express assent, or awe into acquiescence, without inquiry or examination into its necessity. About the commencement of this year there appears, by the report of the Secretary of the Treasury of the 7th of January, to have been a little upwards of two millions four hundred thousand dollars in the Treasury of the United States; and more than one-third of this whole sum was in the vaults of local banks. In several instances, where an opportunity existed of selecting the bank, a preference has been given to the State bank, or at least a portion of the deposits has been made with it. In New York, for example, there was deposited with the Manhattan Bank \$188,670, although a branch bank is in that city. In this District, \$115,080 were deposited with the Bank of Columbia, although here also is a branch bank, and yet the State banks are utterly unsafe to be trusted! If the money, after the bonds are collected, is thus placed with these banks, I presume there can be no difficulty in placing the bonds themselves there, if they must be deposited with some bank for collection, which I deny.

Again, one of the most important and complicated branches of the Treasury Department is the management of our landed system. The sales have some years amounted to upwards of half a million of dollars, are generally made upon credit, and yet no bank whatever is made use of to facilitate the collection. After it is made, the amount in some instances has been deposited with banks, and according to the Secretary's report, which I have before adverted to, the amount so deposited was in January upwards of three hundred thousand dollars, not one cent of which was in the vaults of the Bank of the United States, or in any of its branches, but in the Bank of Pennsylvania, its branch at Pittsburg, the Marietta Bank, and the Kentucky Bank. Upon the point of responsibility, I cannot subscribe to the opinion of the Secretary of the Treasury, if it is meant that the ability to pay the amount of any

of its branches, may bankrupt or destroy the whole system, and the loss of the Government in that event will be of the deposits made with each; whereas in the failure of one State bank the loss will be confined to the deposit in the vaults of that bank. It is said to have been a part of Burr's plan to seize on the branch bank at New Orleans. At that period large sums, imported from La Vera Cruz, are alleged to have been deposited with it, and if the traitor had accomplished his design, the Bank of the United States, if not actually bankrupt, might have been constrained to stop payment.

It is urged by the gentleman from Massachusetts, (Mr. LLOYD,) that as this nation progresses in commerce, wealth, and population, new energies will be unfolded, new wants and exigencies will arise, and hence he infers that powers must be implied from the Constitution. But, sir, the question is, shall we stretch the instrument to embrace cases not fairly within its scope, or shall we resort to that remedy, by amendment, which the Constitution prescribes?

Gentlemen contend that the construction which they give to the Constitution has been acquiesced in by all parties, and under all Administrations; and they rely particularly on an act which passed in 1804, for extending a branch to New Orleans, and another act, of 1807, for punishing those who should forge or utter forged paper of the bank. With regard to the first law, passed no doubt upon the recommendation of the Treasury Department, I would remark, that it was the extension of a branch to a Territory, over which Congress possesses power of legislation almost uncontrolled, and where, without any Constitutional impediment, charters of incorporation may be granted. As to the other act, it was passed no less for the benefit of the community than the bank—to protect the ignorant and unwary from counterfeit paper, purporting to have been emitted by the bank. When gentlemen are claiming the advantage supposed to be deducible from acquiescence, let me inquire what they would have had those to have done who believed the establishment of the bank an encroachment upon State rights? Were they to have resisted, and how? By force? Upon the change of parties, in 1800, it must be well recollected that the greatest calamities were predicted as consequences of that event. Intentions were ascribed to the new occupants of power of violating the public faith and prostrating national credit. Under such circumstances, that they should act with great circumspection was quite natural. They saw in full operation a bank chartered by a Congress who

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ceeding Legislature. And, sir, what a scene of confusion would such a state of things have presented—an act of Congress, which was law in the statute book, and a nullity on the judicial records! Was it not wisest to wait the natural dissolution of the corporation, rather than accelerate that event by a repealing law involving so many delicate considerations?

When gentlemen attempt to carry this measure upon the ground of acquiescence or precedent, do they forget that we are not in Westminster Hall? In courts of justice, the utility of uniformity of decision exacts of the judge a conformity to the adjudication of his predecessor. In the interpretation and administration of the law, this practice is wise and proper; and without it, everything depending upon the caprice of the judge, we should have no security for our dearest rights. It is far otherwise when applied to the source of legislation. Here no rule exists but the Constitution; and to legislate upon the ground merely that our predecessors thought themselves authorized, under similar circumstances, to legislate, is to sanctify error and perpetuate usurpation. But if we are to be subjected to the trammels of precedents, I claim, on the other hand, the benefit of the restrictions under which the intelligent judge cautiously receives them. It is an established rule, that to give to a previous adjudication any effect, the mind of the judge who pronounced it must have been awakened to the subject, and it must have been a deliberate opinion formed after full argument. In technical language, it must not have been *sub silentio*. Now, the acts of 1804 and 1807, relied upon as pledges for the re-chartering this company, passed not only without any discussions, whatever, of the Constitutional power of Congress to establish a bank, but I venture to say, without a single member having had his attention drawn to this question. I had the honor of a seat in the Senate when the latter law passed; probably voted for it; and I declare, with the utmost sincerity, that I never once thought of that point; and I appeal confidently to every honorable member who was then present to say if that was not his situation.

This doctrine of precedents, applied to the Legislature, appears to me to be fraught with the most mischievous consequences. The great advantage of our system of government over all others is, that we have a written Constitution defining its limits and prescribing its authorities; and that, however for a time faction may convulse the nation, and passion and party prejudice sway its functionaries, the season of reflection will recur, when calmly retracing their deeds

our condition if we were to take the interpretations given to that sacred book, which is or ought to be the criterion of our faith, for the book itself? We should find the Holy Bible buried beneath the interpretations, glosses, and comments of councils, synods, and learned divines, which have produced swarms of intolerant and furious sects, partaking less of the mildness and meekness of their origin than of a vindictive spirit of hostility towards each other. They ought to afford us a solemn warning to make that Constitution, which we have sworn to support, our invariable guide.

I conceive, then, sir, that we are not empowered by the Constitution, nor bound by any practice under it, to renew the charter of this bank, and I might here rest the argument. But, as there are strong objections to the renewal upon the score of expediency, and as the distresses which will attend the dissolution of the bank have been greatly exaggerated, I will ask your indulgence for a few moments longer. That some temporary inconvenience will arise, I shall not deny; but most groundlessly have the recent failures in New York been attributed to the discontinuance of this bank. As well might you ascribe to that cause the failures of Amsterdam and Hamburg, of London and Liverpool. The embarrassments of commerce, the sequestration in France, the Danish captures—in fine, the belligerent edicts are the obvious sources of these failures. Their immediate cause is the return of bills upon London, drawn upon the faith of unproductive or unprofitable shipments. Yes, sir, the protests of the notaries of London, not those of New York, have occasioned these bankruptcies.

The power of a nation is said to consist in the sword and the purse. Perhaps, at last, all power is resolvable into that of the purse, for with it you may command almost everything else. The specie circulation of the United States is estimated by some calculators at ten millions of dollars; and if it be no more, one moiety is in the vaults of this bank. May not the time arrive when the concentration of such a vast portion of the circulating medium of the country in the hands of any corporation will be dangerous to our liberties? By whom is this immense power wielded? By a body who, in derogation of the great principle of all our institutions, responsibility to the people, is amenable only to a few stockholders, and they chiefly foreigners. Suppose an attempt to subvert this Government, would not the traitor first aim, by force or corruption, to acquire the treasure of this company? Look at it in another aspect. Seven-tenths of its

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duced the downfall of almost every free Government that has hitherto existed; and yet gentlemen contend that we are benefited by the possession of this foreign capital. If we could have its use, without its attending abuse, I should be gratified also. But it is in vain to expect the one without the other. Wealth is power, and under whatsoever form it exists its proprietor, whether he lives on this or the other side of the Atlantic, will have a proportionate influence. It is argued, that our possession of this English capital gives us a certain influence over the British Government. If this reasoning be sound, we had better revoke the interdiction as to aliens holding land, and invite foreigners to engross the whole property, real and personal, of the country. We had better at once exchange the condition of independent proprietors for that of stewards. We should then be able to govern foreign nations, according to the arguments of gentlemen on the other side. But let us put aside this theory, and appeal to the decisions of experience. Go to the other side of the Atlantic, and see what has been achieved for us there by Englishmen holding seven-tenths of the capital of this bank. Has it released from galling and ignominious bondage one solitary American seaman, bleeding under British oppression? Did it prevent the unmanly attack upon the Chesapeake? Did it arrest the promulgation, or has it abrogated the Orders in Council—those orders which have given birth to a new era in commerce? In spite of all its boasted effects, are not the two nations brought to the very brink of war? Are we quite sure that, on this side of the water, it has had no effect favorable to British interests. It has often been stated, and, although I do not know that it is susceptible of strict proof, I believe it to be a fact, that this bank exercised its influence in support of Jay's treaty; and may it not have contributed to blunt the public sentiment, or paralyze the efforts of this nation against British aggression?

The Duke of Northumberland is said to be the most considerable stockholder in the Bank of the United States. A late Lord Chancellor of England, besides other noblemen, was a large stockholder. Suppose the Prince of Essling, the Duke of Cadore, and other French dignitaries owned seven-eighths of the capital of this bank, should we witness the same exertions (I allude not to any made in the Senate) to recharter it? So far from it, would not the danger of French influence be resounded throughout the nation?

I shall give my most hearty assent to the motion for striking out the first section of the bill.

Mr. POPE.—Mr. President, in rising on this

and chaos from which this political fabric was reared by the wisdom and patriotism of the first statesmen of which any age or nation can boast. For twenty years we have collected our revenue, borrowed money, paid our debts, and managed our fiscal concerns through the agency of a national bank. That it has answered the most sanguine expectations of its authors; that it has been well managed, is admitted by the most decided opponents to the renewal of the charter. Although in public debate, in newspapers, court-yards, muster-fields, &c., we have heard much of dangerous powers, violations of the Constitution, British influence, and poisonous vipers, &c., &c., which were to sting to death the liberties of the people, yet we find ourselves as free almost as the air we breathe, and hardly subservient to the mildest code of laws by which any nation was ever governed. In the city of Philadelphia, and the State of Pennsylvania generally, where these animals called banks have grown to the most enormous size, we find as sound morals, and as much real practical republicanism, as in those parts of the Union, where the rattling of this viper's tail has never been heard, and in point of solid wealth and internal improvements, mark the contrast. We are required to disregard the lessons of that best teacher, experience, and to try some new scheme. However captivating new theories and abstract propositions were a few years since, I believe the thinking men of all parties in the nation are perfectly convinced that one ounce of experience and common matter of fact sense is worth more for the purposes of legislation than a ship-load of theory and speculation. We are told that we must force into the vaults of the bank a large portion of the circulating medium, and thereby depress the price of everything in the market; we must give a shock to credit of every kind, check, and embarrass every branch of agricultural, commercial, and manufacturing industry; give up the young mechanics, manufacturers, and merchants with small capitals a prey to the cupidity of moneyed men; who will be tempted to withdraw their funds from trade to speculate on the wrecks of the unfortunate. This is not mere matter of calculation. I only state facts proved to us by the most unquestionable evidence. We are not only, sir, to ruin many innocent and unoffending individuals, but to derange the national finances; and for what is all this to be done? To promote the public good or advance the national prosperity? No, sir, it is not pretended. We are gravely told that we, the Representatives of the people, must sacrifice the people to save the Constitution of

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stitution; but to correct what we suppose to have been an erroneous construction of it by our predecessors, of which neither the States nor the people have ever complained, appears to me more nice than wise.

Disguise this question as you will, sir, and still it will clearly appear to be a contest between a few importing States and the people of the United States. Resolutions have been already laid on our table by gentlemen from the two large States; from which instructions have been received in substance, requiring Congress to give up to the State banks the collection of the national revenue. I am, Mr. President, on the side of the people of the United States. This is indeed a question of party, but of a very different character from that which will be attempted to be palmed on the people. It is a contest between the friends and enemies of the Federal Constitution revived; for, if I am not mistaken, the power of laying and collecting imposts and duties was strongly objected to by some of the large States having advantageous seaports, before the Constitution was adopted. I am for preserving both the States and the Union. I consider the safety and independence of the several States and the liberties of the people inseparably connected with and dependant on the efficiency of the National Government, and it is to me unaccountable that gentlemen in favor of strong measures against foreign nations should be so solicitous to strip the General Government of this very essential part of its power. We were told, a few days since, that our Army was so insignificant and contemptible, that it would require a constable, with a search warrant, to find it. I have heard another gentleman of very high standing suggest the propriety of retroceding the ten miles square to the States of Virginia and Maryland. Our gunboats are almost rotten. We have not more frigates and other armed vessels than sufficient to carry our Ministers and diplomatic despatches to foreign Courts, and if we yield to the States the collection of our revenue, what will remain of the Federal Government with which the people can identify their feelings or affections? In what will this Government consist? It will be a mere creature of the imagination—a political fiction. And, analogous to the fiction in the action of ejectionment, we shall have to suppose its existence, and then bottom our proceedings upon that supposition. If I was hostile to our Federal Union, or wanted to prepare the public mind for a surrender of this happy system of Government, I would join in the hue and cry against this in-

the virtue and intelligence of a nation, is the first of human blessings, but when directed by the angry, vindictive passions of party, the worst of which the imagination can conceive. A Republic, to be durable, must inspire confidence and respect. Such instability, such variable unsettled policy as now appears to be the order of the day, could not have been anticipated by any man blessed with a tolerable degree of faith in the success of this great republican experiment. Mr. President, I have ever been opposed to yielding to the commercial interest an undue influence in this Government, but I am unwilling to make an unnecessary and wanton attack upon them. Coming from an agricultural State, I am not disposed to increase the jealousies which unfortunately exist, and thereby weaken the ties by which these States are held together. I am sensible, too, how much the prosperity of the State I represent depends on a prosperous state of trade, and although the shock from the dissolution of this bank will be first felt in the commercial cities, it must immediately react to the extremes of the empire. I know many are under an impression that Federalists and British agents are to be the victims; but very different will be the result. I refer to the evidence detailed by the honorable gentleman from Massachusetts (Mr. LLOYD.) But is it possible that an intolerant spirit of party has prepared us for this? Are gentlemen ready to injure their country, weaken our Federal Union, the sheet-anchor of our political safety, to reach their political opponents? I will not believe it. When I see around me some of the soldiers of the Revolution, actuated I am sure by nobler views; when I see the professors of a religion which teaches us to love our neighbors as ourselves, I cannot persuade myself that Christian charity; and all the noble, generous feelings of the human heart are extinguished by this demon, party spirit. If there be a man in the nation who can witness with unfeeling apathy the distresses of his fellow-citizens, he would have figured in Smithfield in the bloody reign of Queen Mary of England, in binding heretics to the stake; or in the sanguinary time of Robespierre, in adding victims to the guillotine; but he is unworthy the blessings of a free Government.

Sir, I address the Senate under circumstances discouraging indeed. I have been told, and on this floor, that debate is useless; that no man's opinion is to be changed; that I shall find verified in the decision of this question the sentiment contained in two lines of Hudibras—"He that is convinced against his will, is of the same opin-

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Constitutional difficulties with which it has been encumbered.

To form a correct opinion, we must retrospect the defects of the old Government, and ascertain the remedy which was anticipated in the present Constitution. I believe it will be conceded that the great cause of the inefficiency of the former was not because their principal field of legislation was too limited, but was owing to its dependence on the States for the means to carry their powers into effect. For the truth of this position, I appeal to the history of that day—to the candor of gentlemen who hear me. The present Constitution was framed for national purposes, with ample authority to pass all laws necessary and proper for the attainment of its objects, independent of State authority, except so far as expressly made dependent by the Constitution. The erroneous impressions with regard to this bank have arisen from ignorance of facts, relative to the practical fiscal operations of the Government, and from confounding an original, independent power, to establish banks and corporations, with a necessary auxiliary to the execution of the powers given. By the Constitution it is expressly declared, that Congress shall have power to pass all laws necessary and proper to carry into effect the powers previously enumerated, and all other powers vested in the Government of the United States, or any department or officer thereof. Our power to create a bank is not derived by implication. No, sir. If this express delegation of power had not been inserted, we must have implied the authority to provide the means necessary and proper, &c.

But the Convention, with a full knowledge of the defects of the old Confederation, and deeply impressed with the necessity of an efficient national Government, determined to exclude all doubt by granting to the new Government, in express and unequivocal language, ample authority to use all means necessary and proper for the attainment of the ends for which it was instituted. If a man was requested to look at the Constitution and decide whether power is given to Congress to create a bank, or corporations generally, he would answer in the negative. This would very naturally be the answer of most men upon the first blush of the Constitution. It is not pretended that Congress have power to create corporations as an independent proposition. The authority to establish a bank or corporations is only contended for so far as it can be fairly considered as a necessary and proper auxiliary to the execution of the powers granted by the Con-

Senate and the world, this material fact, will be my business before I request their assent to the position assumed, that Congress have an express power to incorporate a bank. To do this it is indispensable that we should understand the practical financial concerns of the Government, or have the information of those who do. We appropriate money for fortifications on the report of our engineer, Colonel Williams, and for the Capitol, &c., upon the report of Mr. Latrobe. To know how much timber or other materials are necessary for a ship or a house, you must understand the subject yourself, or have the information of those who do. For myself, I am ready to admit that I rely much upon the information and experience of others. To ignorant men, and those who do not profess to be fully acquainted with the nature and management of the national finances, the following evidence is presented. The first, and with many, perhaps the best, not heretofore particularly noticed, which I shall offer, is the Congress of 1781, which established a national bank, called the Bank of North America, during our revolutionary struggle, the utility and necessity of which was ascertained by the experience of that day.

It is worthy of remark, that they created a bank under powers much more limited than ours. That act was not passed precipitately, but was the result of the most mature and deliberate consideration. I beg leave to read the preamble of the law which contains the opinions of that Congress with regard to the utility and necessity of a National Bank. "Whereas Congress, on the 26th day of May last, did, from a conviction of the support which the finances of the United States would receive from the establishment of a National Bank, approve a plan for such an institution submitted to their consideration by Robert Morris, Esq., and now lodged among the archives of Congress, and did engage to promote the same by the most effectual means; and whereas the subscription thereto is now filled, from an expectation of a charter of incorporation from Congress, the directors and president are appointed, and application has been made to Congress by the said president and directors for an act of incorporation: and whereas the exigencies of the United States render it indispensably necessary that such an act be immediately passed—Be it therefore ordained," &c. This act passed on the 31st day of December, 1781. And here permit me to observe that this National Bank, styled the Bank of North America, was not produced by British influence or party spirit. No sir the li-

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voted against it, the two members from Pennsylvania were divided—of the four from Virginia, Mr. Madison alone voted against it. Here it is evident that, in the very infancy of our Republic, before indeed it could with propriety be said to be born, when every bosom glowed with enthusiasm for liberty and a pure disinterested patriotism, a National Bank was not thought that dangerous, dreadful monster, which the very wise and exclusive patriots of 1811 are endeavoring to represent it to the American people. And the construction given to the grant of powers in the Articles of Confederation by the Congress of 1781, is strong evidence of our right to establish a bank under a grant of powers much more ample, and with money concerns vastly more extensive and complicated.

The next evidence I shall adduce for the consideration of the Senate, is the opinion of the late General Hamilton, appointed by President Washington, the first Secretary of the Treasury; whose province and duty it was to superintend the national finances. His attention was therefore particularly directed to the subject, and, in a very able report to the first Congress, assembled under the new Constitution, he recommended a National Bank. Although opinions have been imputed to this gentleman, very foreign to my feelings and notions about Government, yet he has ever been acknowledged, by the candid and liberal of all parties, one of the first American statesmen. For reasons, which it is unnecessary for me to assign, I will not press his opinion upon the attention of the Senate, but will introduce other and perhaps less exceptionable testimony. The Congress of 1791, which incorporated the present bank, merits the highest regard. It was composed of the most enlightened and distinguished men in America, many of whom had been members of the convention, and were fully apprized of the defects of the old and the objects of the new Government. A large majority of both branches voted in favor of the bank. They were not divided on the question by party. Many who have continued with the Republican party under every Administration voted in favor of this bank. Although different speculative or abstract political opinions were then entertained, yet the spirit and passion of party had not diffused itself so generally through the nation as at a subsequent period. The next authority in favor of this bank, and one which must at all times and on all occasions command the highest respect, is no less than our immortal Washington. He was President of the United States in 1791, when this

claim to our confidence. Let us pause before we disregard his solemn advice. This is the hero who led our armies to victory; this is the Washington, who, at the close of our Revolutionary war, disbanded a disciplined army in the bosom of the Republic, and voluntarily exchanged the splendid robes and ensigns of military power for the plain, humble garb of a private citizen. This Washington, who continued an American, a Republican in heart and in sentiment, until summoned to the mansions of bliss; yes, sir, this illustrious departed hero, this practical statesman, has solemnly declared to the American people that a National Bank is a necessary and proper auxiliary to the execution of the national powers. The last authority I shall particularly notice in support of this institution, is the opinion of the present Secretary of the Treasury, Mr. Gallatin. If this gentleman cannot boast of the military laurels which have adorned the brows of the patriots I have mentioned; as a statesman and faithful public servant, he stands inferior to none. Mr. Gallatin, from his first appearance on the theatre of public life, has been considered by all parties an able financier. At a very early period the finances of the United States became the subject of his particular attention and inquiry; the result of which was a treatise, published in 1796, called "Gallatin, on the finances of the United States," in which he gives a decided opinion in favor of this bank. I rely much on his opinion at that period, because it must have been the result of conviction, and not of any party feeling or consideration, as he was then in the minority, and continued in it until the Administration changed. His report to the Senate during the last session of Mr. Jefferson's Administration, and his letter to the committee, show, that time and experience, so far from changing, have confirmed him in the opinion he first formed on the subject; to which I might add every Administration and almost every man practically acquainted with our money concerns. Is not this mass of evidence sufficient to substantiate the facts upon the existence or non-existence of which the constitutionality of this measure depends? I put the question to the candor and good sense of gentlemen, whether they are not satisfied, in the language of the Constitution, that a National Bank is necessary and proper to effectuate the legitimate powers of the National Government? If they answer in the negative, I can only say, he who will neither regard the suggestions of experience, nor believe the report of the great political disciples who have gone before us, would not

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too much to be driven along by any such idle, ridiculous clamor.

To all the high authority I have mentioned in support of a National Bank, may be opposed the names of some great men of Virginia, who have long since, I hope, got rid of their errors and prejudices; among others will probably be mentioned the name of the present President, who voted against the present bank in 1791, and against the Bank of North America in 1781; no man has a higher respect than myself for his virtues and wisdom, but I believe it is not pretended that he ever was a practical financier. No State can boast of more genius, eloquence, and talents than Virginia; it will, however, be conceded, that no people are more deficient in practical knowledge of finance and the nature of moneyed institutions. Indeed they were, a few years since, frightened at the very name of a bank—as soon as they heard of one, they began to write books, make speeches, and pass resolutions, to lay this ghost of tyranny. It required all the eloquence of my honorable friend from that State, (Mr. BRENT,) to persuade the Legislature that the little Bank of Alexandria would not sweep away their liberties. The talents and boldness with which he on that occasion assailed the prejudices of Virginia, instead of injuring him, inspired the people with the highest confidence in his integrity and firmness; since, however, they have become acquainted with this bank animal, they find it perfectly harmless, and no people in the Union are more disposed to foster them.

The people, in framing this instrument, have avowed the objects for which it was created. They say in the preamble, "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." After declaring by whom and in what manner the legislative power shall be exercised, the qualifications of the electors and elected, the terms, &c., for which the Senators and Representatives shall be respectively chosen, and making various other provisions relative to the legislative department, they proceed to enumerate the principal cardinal powers granted to Congress: among others, that the "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all

eral provision before noticed. "To make all laws necessary and proper for carrying into effect the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." This provision contains a general authority as to the means necessary to carry into effect the national powers. The Convention could not foresee or define what laws in the progress of the Government the varying circumstances of the nation might require, and therefore wisely submitted them to the discretion of Congress, to be exercised on facts and circumstances, as they occurred. It has been said this discretion may be used, and so may every other power given to Congress—the security of the people against the abuse of this or any other power is their own virtue and intelligence, and the responsibility of their public servants. The question on every law bottomed on this clause of the Constitution must be, whether it is necessary and proper, or, in other words, fairly suited to, and well calculated for, legitimate national objects; and if it can be fairly considered necessary and proper, and is not prohibited, then it is certainly within the pale of the Constitution.

The Constitution may with propriety be compared to a ship finished as to all the substantial parts before she is put to sea. The people have built the national vessel, directed in what manner the commanders are to be chosen, and made it their duty to provide sails, rigging, seastores, &c., necessary and proper to enable her to perform the voyages for which she was destined; and those appointed to navigate her are not only bound to provide what is necessary and proper for those seas where temperate and gentle breezes are to be met with, but fit her to encounter the most tempestuous seasons.

As I heard much said about absolute, indispensable necessity, I may be pardoned for giving what I consider the sound interpretation of the words "necessary and proper" in the Constitution. This idea of absolute, indispensable, &c., must have originated in an excessive jealousy of power or a decided hostility to the Federal Union. This instrument was framed by and for the people of the United States, and, in the language used, was certainly intended to be understood in that sense in which it is used and understood by them generally. If you ask a plain man what are the necessities of life, he will answer, something below luxury and extravagance, what is calculated to afford him reasonable comfort. Neither a house nor a bed is absolutely or indis-

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a gentleman from Baltimore gives his agent instructions to provide everything necessary for an East India voyage, what would he expect? Certainly that he should avoid unnecessary expense, but would consider him acting within the pale of his authority if he procured only what was reasonably necessary and proper, or, in other words, what was fairly suited to the master and crew, and well calculated to enable the vessel to reach her port of destination. That interpretation is correct which best accords with the common sense and understanding of mankind. It must, therefore, be evident that the only question as regards the constitutionality of the measure to be decided is a question of fact, and that is, whether a National Bank is reasonably necessary and proper, or fairly suited to, and calculated for, the collection of our revenue and the management of our money concerns. And this fact appears to be admitted by the gentlemen opposed to the bill, for their arguments are predicated upon the probability that the State banks will answer the national purposes. This is a complete surrender of the Constitutional objection; for, if banks be necessary and proper, it follows that we have a Constitutional power to create them, and it will be a mere question of expediency whether we will use State banks or a National Bank. My colleague (Mr. CLAY) has asked for the congeniality between a bank and the collection of our revenue? The argument in favor of using State banks shows it, but let the use hitherto made of the bank answer the question. Is not a bank a proper place for the deposit and safe-keeping of money—more so than the custom-house? Is it not a convenient agent for paying and receiving money? Through the agency of this bank our revenue, or the greater part of it, has been collected, our financial transactions done, and public money transmitted to such places as the necessities of the Government required. The revenue collected at Boston, Baltimore, or any other port, is paid, if required, at New Orleans, Natchez, St. Louis, or any other place, without risk or expense. The money in the bank and its branches is payable at such of them as the convenience of the Government may require, and, by this arrangement, we can command the whole of the public money in any quarter of the Union without risk or expense. The operations of this institution have been confined to the seaboard. The principal bank is at Philadelphia, with a branch at New York, Boston, Baltimore, Washington, Norfolk, Charleston, Savannah, and New Orleans. At all which places, the Government has considerable revenue to collect.

Every one draws into its vaults; subject to the demands of Government, the revenue collected at the less important ports in the same quarter of the country. Boston being the commercial emporium of New England, the Government, by the agency of the branch bank there, is enabled to draw to that point most of the revenue received at the numerous ports in that quarter of the Union. The repeated sanctions this bank has received from the different Administrations, and especially from Mr. Jefferson and the Republican party, by authorizing the extension of a branch to New Orleans, and selling one million of the stock, the property of the United States, to British subjects, for four hundred thousand dollars more than the nominal amount is indeed strangely accounted for; gentlemen say the Government were bound to fulfil their engagements, and that the charter, being in the nature of a contract, was sacred. I had thought the fashionable doctrine was, that an unconstitutional law was wholly null and void. It has been held by some of the States. However plausible the answer to the argument of acquiescence, it furnishes no apology for a positive confirmation. Permit me to assimilate a common case between individuals to the case before us: a man in Washington executes a joint power to five trustees in Kentucky to collect his debts, settle his land business, &c., and authorizes them to take all steps necessary and proper to effectuate the trust or power; in the progress of the business a measure is suggested as necessary, about which there is a diversity of opinion among the trustees. A majority, however, decide that it is within their authority; the principal is informed of it, does not complain or disavow, but positively and by the strongest implication assents to the construction given by his agents. In such a case there would be but one opinion. In 1791 a National Bank is proposed to Congress; they differ as to the constitutionality, a large majority decide in favor of it; the people and the States are informed of the measure, the States do not protest, nor do the people complain; many of the States pass laws to protect the institution, it receives the confirmation of three or four different Administrations, and particularly of the one composed of men originally opposed to it; it violates no positive provision of the Constitution; no mischiefs have been produced, but great convenience and advantage has been experienced by the Government and community. I ask whether, under such circumstances, the question ought not to be considered settled? Is no respect due to the opinions

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except the sedition law, which was supposed to violate a positive provision of the Constitution—the same practical construction has been given to this instrument by every Administration of the Government. Indeed, the sphere of national legislation has been more enlarged under Mr. Jefferson's than any other Administration. All parties have found that the national vessel could not be navigated without sails, rigging, and everything necessary and proper. Whence was derived a power to pass a law laying an embargo without limitation? There is nothing in the Constitution about embargoes. Whence did we derive a power to purchase Louisiana, and incorporate it with the good old United States? There is no express delegation of power to purchase new territory. On these subjects the Constitution is silent. I have approved both. No State can lay an embargo, or acquire new territory. Our power to perform these acts results from the nature of the national sovereignty created by this Constitution. The Republican Administrations have no pretensions to the approbation of the people on the ground of having restrained any latitude or liberality of construction. Their claim to the public confidence is founded on very different considerations. They have repealed the internal taxes, paid a large part of the public debt, purchased Louisiana, and preserved to the nation the blessings of peace. For these acts, they have, I believe, the thanks of the nation. They have mine, most sincerely.

Great stress is placed on the twelfth article of the amendments to the Constitution, which declares the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. I must confess that I cannot discover what influence this can have on the bill under consideration, or any other measure which may be proposed. It appears to me to have been adopted rather to quiet State jealousies and popular fears than with a view to produce any positive effect, for the inquiry must ever be, Is the power given? And if granted, it is not retained. The supporters of this bill do not pretend to usurp any power retained by the States or the people, but contend that the power to pass the bill is expressly delegated, if the facts assumed are true.

It is not pretended that our fiscal concerns can be managed with gold and silver. If our territory was of no greater extent than Rhode Island, Delaware, or the city of Philadelphia, gold and silver would answer the purposes of the Govern-

against the power of the States to authorize the emission of bank paper, founded on that part of the Constitution which declares that "No State shall emit bills of credit," acquires great additional force, when these bills of credit are made to assume the character of money, for national purposes. In the same article the power to coin money is expressly prohibited to the States, and in the catalogue of cardinal powers granted to this Government, is that to coin money. It will, perhaps, be contended that this only applies to gold and silver, but if that be admitted to be the literal meaning of the words, still it is evident that what shall be the national currency, whether specie or paper, is a proper subject of national legislation. No gentleman will be so absurd as to insist that any State or States ought to coin the current money of the United States. That the power of the States to establish banks may be questioned with at least great plausibility, is perfectly clear, but as this banking power has been so long exercised, as the National and State banks have conducted their operations very harmoniously, as no serious evils call for national interference, I am not for disturbing the existing state of things; it is better, perhaps, that the banking power should be divided between the States and the United States. That bank paper, if good, is in fact money, although not made a legal tender, cannot be denied. The currency of this bank paper of the United States, although made by law receivable in payment of revenue, rests upon a much better foundation than an act of Congress. Its national character, the extended operations of this bank from Boston to New Orleans, have given it credit with the people of every part of the empire, more than the bank paper of any particular State can be expected to have; so that, by common consent, this money coined by the national bank has become the current money of the United States. I hope we shall never be driven to the necessity of compelling our citizens by law to receive our paper. We should so guard and regulate our banking operations as to make the national paper at least equal to gold and silver, in every quarter of the Union.

If this bank is removed, the Secretary of the Treasury must nationalize the bank paper of the great importing States; for, I presume, Congress will never decide what State paper shall be used by the officers of the General Government. Most of the public money is now collected and deposited in the Bank of the United States; if that is destroyed, the Secretary of the Treasury

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point a certain portion of the directors of his nomination, and through them he can reach the credit of any man who may have accommodations in it. It is true we have now a man at the head of the Treasury who may not be disposed to abuse this power, but we may not always have such an officer. This immense power and influence may be exercised in an invisible manner, and, of course, without responsibility. Is this republican? It was not a few years ago. I have always understood that one of the strongest and most popular objections to the Federal Administration was their disposition to increase Executive patronage.

We are told that our remittances to foreign countries and to different parts of the United States can be made in bills of exchange. This, to be sure, is possible, but this mode is less convenient and more hazardous. I believe the Government has sustained no loss in the remittances made to Europe through the agency of this institution. They are able, through the medium of their several branches, to ascertain the credit and solvency of every commercial house in the United States, and thereby to purchase bills for foreign remittances with safety. The great punctuality secured to the Government in the payment of their revenue by their agency, is also an object of some consequence.

Much alarm and delusion have been artfully spread through the country about a violation of the Constitution and a consequent destruction of our republican institutions. I fear the people are unfortunately led to believe that the security of their liberty depends too much upon paper barriers, and too little upon their own virtue and intelligence. It appears to me that the Constitution is occasionally made a mere stalking horse, to serve the purposes of unprincipled demagogues and pretended lovers of the people, to get into power to the exclusion of honest men. They, with great address, distract and inflame the public mind about some nice Constitutional question, or abstract proposition, and thereby bring the people to decide, not which candidate is the most entitled to their confidence, but who rides the finest electioneering hobby. We are misled very much, I believe, by theories and terms more applicable to other Governments than our own. In Great Britain, they speak with great propriety of the Government and people, because there is in that country an immense power independent of the people. But here, where every public functionary is responsible to, and the Government in the hands of a majority of the people, those

oppressive or inconvenient, will be resisted, and corrected by the public feeling and opinion. This is not mere theory. Look at the State of Connecticut, one of the best regulated democracies in ancient or modern times, whose Legislature is as omnipotent as the British Parliament. What people enjoy more real liberty and independence? In what country is to be found more practical, intelligent republicanism? Those principles which secure the rights of the citizen and the responsibility of their public servants are held sacred, but the Legislature is, I believe, unrestricted with regard to measures of general policy. It is a truth which ought to be deeply impressed on the American mind, that the preservation of this republican system depends more upon the virtue and intelligence of the people, and the responsibility of their public servants, than paper restrictions. It is unfortunate that every measure calculated to advance the national prosperity is arrested by some Constitutional difficulty. The bills respecting the Ohio and Delaware canals, which passed the Senate, have been opposed in the other House by the same Constitutional obstacles urged against this bank. I may be asked if I am opposed to any limitation on the powers of the Government? to which, I answer no. I think the nature of the powers to be exercised by the General Government ought to be defined with as much precision as the imperfection of human language and foresight are capable of. The convention acted wisely in giving no more latitude than was necessary to the success of the experiment. Not because I think them so essential to the security of the rights of the people as to prevent unpleasant and dangerous collisions of authority between the National and State governments. In the application of this instrument, by the different men and parties, to the ground supposed to be embraced by it, some trivial variation from what may be deemed by many the true political meridian was to be expected, and a small allowance is, perhaps, due to human fallibility. It will be some time before the boundary line will be plainly marked by usage and practical construction. So far as it has been ascertained, and any question of power settled by common consent, every consideration connected with the good of our country forbids us to disturb it. Gentlemen endeavor to alarm us with a thousand imaginary dangers. They say, suppose Congress were to do this, that, and the other monstrous thing. You may suppose anything, and make what deductions you please. Suppose the people were to destroy their own liberties, what then?

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This bill, probably, is opposed by many under an expectation of a new national bank. As this question will, at least, appear to be decided on Constitutional ground, their expectations will hardly be realized. Indeed, it is questionable whether either foreigners or our own citizens will again vest money in a national bank. The fall of this will throw a large portion of the banking capital into the banks of the great commercial States, whose influence and hostility will be increased against a new national institution. But why put down one national bank to raise up another? How are the people to be benefited by it? I shall be told, perhaps, that the direction ought to be changed. And what will be this change? Why, merely putting out one set of moneyed men to put in another, who will very soon be the same. If this be the object, I will only observe,

"Strange there should such difference be
"Twixt tweedledum and tweedledee."

It is but the difference between Hopkins and Sternhold, and Sternhold and Hopkins. A new national bank, with an increased capital, would, to be sure, open a new field of speculation and increase that influence of which gentlemen pretend to complain; for, if moneyed men retain their confidence in our institutions, the same motives which induced foreigners to purchase seven millions of the present stock, will induce them to purchase the stock of the new bank. I hear, with some astonishment, gentlemen opposed to this bill, and particularly my friend from Tennessee, (Mr. ANDERSON,) declaim with such apparent earnestness about the danger of this institution with a capital of only ten millions of dollars, when I recollect the partiality they manifested for a bill before us last year, which proposed to create a national bank with a capital of thirty millions. On the motion to postpone that bill till the first Monday in December last, in substance a motion to reject, it will be found by reference to the Journals that most of those opposed to this voted against the postponement. If this bank of ten millions is such a viper, a thirty million bank would, indeed, be a monster. Gentlemen may say that, although they voted against postponement, they intended, ultimately, to vote against the passage of the bill. Let this be conceded, and still their votes evince a decided preference of the new to the present institution. I voted for the postponement because I was not entirely convinced of its constitutionality, nor was I satisfied with the details. The banking operations of the present institution are confined

constitutionality of it at this time. Other substantial objections to that bill will suffice to justify my vote, if necessary. If the object of gentlemen was to eradicate the banking system from the country, I might, in obedience to my former prejudices, be more disposed to join them. But this is not even pretended. The sole object in the death of this, is, to generate more of these vipers, under State or federal authority.

The people of the United States, through the medium of the National Government, have within their control that portion of the moneyed capital vested in this bank, which is not only a convenient agent, in the management of the finances, but furnishes loans to the Government, to answer occasional deficiencies in the revenue. If we relinquish entirely our power over the moneyed capital, will not the influence of the interior States be diminished, and that of the commercial States increased? The importing States will have the moneyed capital; the greater part of our revenue will be collected by their banks, and we shall not only be dependent on them for loans, but they can at any time withhold our revenue, without the interposition of force.

The sum required to be paid by the stockholders, is strongly objected to. And why, sir? Is there any thing unreasonable in this provision? The privileges and benefits, to be enjoyed by them, they will derive from the people of the United States; for which, justice requires them to pay the people an equitable equivalent. This sum is demanded in the nature of a tax on the privilege granted. The premium contemplated with the probable advance on the five millions of stock, authorized to be subscribed by the United States, will amount to about three millions of dollars. They are to pay three per cent on the public deposits, which will, I suppose, without pretending to have made an accurate estimate, amount to several millions more during the term of incorporation; so that this bill, if passed into a law, will bring into the national treasury five or six millions of dollars, for the benefit of the people of the United States; and what are we about to do! Why, sir, give it up to the large States on the seaboard, in whose banks, we are told by gentlemen on the other side, this very dangerous foreign capital will be vested, and our revenue deposited. Well may those States clamor about State rights and State interests, but how the interest or importance of Kentucky in the Union, or of any State where none of the national revenue is collected, is to be advanced by the destruction of this institution, I am not conjurer enough to discover.

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be a temporary institution? In the numerous transfers of stock which have taken place, was it so understood? Could it have been expected that a Government, which declared a national bank necessary and proper, the first twenty years of its existence, would dispense with it afterwards? The limitation of the corporation to that period was very proper. It is highly expedient that these charters should return occasionally into the power of the people, to afford them an opportunity of revising and correcting them; besides, such a limitation, by increasing their dependence, gives some security to the community against abuses. Has not the conduct of the Government authorized an expectation, that this bank would be continued? And if it has, are they not bound by the rules of morality to fulfil that expectation, unless the Constitution or public good clearly forbid it?

Although this subject has received much false coloring through the country, by charges of British influence, &c., I did not expect to hear it from an honorable Senator of the United States—it has not indeed been positively asserted, but hinted in such a manner as to make an impression on the community. Some stale circumstances connected with the British treaty have been very unnecessarily lugged in to increase the prejudices against this bill. It has been insinuated, that British influence, operating through this institution, has prevented the Government from taking strong measures against Great Britain; but in what manner this has been effected, gentlemen have not been good enough to explain. Did it prevent Mr. Jefferson from taking a war course? For I believe it is generally understood that he was opposed to a war. Has it operated upon the present Executive? Such a suggestion will not be made. I have, during my service here, given a fair and faithful support to the Administration, and I have certainly voted for stronger measures than they were willing to accept. It is due to the 10th and 11th Congresses, who have been so much abused, to state, that their course, as regards the question of peace or war, has been in perfect unison with the views of the late and present Presidents. Let it not be inferred that I am disposed to find fault; I believe when we consider the very extraordinary state of the foreign world, and retrospect the embarrassing circumstances which have surrounded us, the course pursued by them ought to be deemed substantially correct, certainly so as respects their leading object, which has been to avoid making this country a party in the present war. If I was disposed to censure, it would be for not making an effort

probable, but how this interest gives them an influence here I am at a loss to perceive: foreigners cannot even vote in the appointment of directors. If there is any reality in this idea of foreign influence through this institution, why did gentlemen permit the present stockholders to be incorporated into the bill introduced last year? And why was not a provision inserted to prevent foreigners from purchasing additional stock?

We are told too of their partiality in discounts. I might answer this argument, by asking, what bank or what administration has not been partial? What member of this Senate has never used his influence in favor of his friends against men, perhaps, of more merit? If partial evils or small improprieties are to authorize a war of extermination against our institutions, none would prove so immaculate as to escape the general catastrophe. By the bill reported, an odious feature in the present charter, granting an exclusive privilege, is expressly repealed, and the Government authorized to subscribe stock and appoint directors. This will give us a sufficient control to guard against all the evils, real or imaginary, which have been complained of. I have heard no gentleman advocate a simple renewal of the charter. This charge of partiality on the score of party, at least for the last twelve years, has been completely repelled by the deputation of five from the mechanics and manufacturers of Philadelphia, and let it be remembered, too, that these men are republicans of the first water. We are arraigned, sir, for the great attention and respect shown to the two deputations from Philadelphia, one in behalf of the mercantile, the other of the manufacturing interest; from the latter we received the most of the facts which have been detailed to the Senate. They did not come armed with any political resolutions to influence our deliberations; no, they were sent to represent the embarrassments of the commercial and manufacturing classes in Philadelphia, arising from the apprehended dissolution of the bank. And was it improper in the committee to hear them? Their candor and respectability were not doubted by those of the committee most opposed to the bank. Is anything more common in England than for Parliament to hear witnesses, and even counsel, in behalf of any class of men whose interest is supposed to be affected by a measure depending before them? And shall we deny to American citizens privileges enjoyed by British subjects?

Gentlemen say the embarrassments in Philadelphia could not have been occasioned by the Bank of the United States, because they continue to discount as usual. If I recollect aright, it

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ing, indeed, seems too absurd for the human mind to seize upon, when under the influence of passion or misguided zeal.

I must omit, Mr. President, many of the remarks I intended to offer to the Senate on this bill—I owe it to other gentlemen who wish to express their views. Before I sit down, I beg leave to say a few words about the liberty or tyranny of the press. Tyranny is to me, sir, a hideous fiend in every possible form. A press well conducted is invaluable; but this palladium of our rights may, if permitted to exercise an undue influence, be made the instrument to entomb the liberties of this people. With what indignation would an attempt through the medium of the press, to intimidate a court or jury in relation to a controversy while pending, be viewed; and what course would be taken? I need not answer the question. And is it not equally important that our deliberations should be free from an improper and irresponsible influence? After I have given my vote, I am ready to meet investigation; but this system of abusing and denouncing members who may speak or vote for or against a measure depending before Congress, is a monstrous outrage upon the independence of the National Legislature; and every attempt of editors to influence their decision by assailing or exciting unfounded prejudices against them respecting a subject upon which they are deliberating ought to be reprobated and resisted by every friend to his country.

If it is once understood that Congress are controlled by the dictatorial arrogance of the press, what will be the consequence? However pure the press may now be, if it should become an object with a foreign nation to give a direction to our measures, or of a junto of assassins behind the curtain to proscribe every honest, independent man from the confidence of the people, a sufficient number of them will be purchased at any price, and through this medium, if well combined and organized, an unseen power will guide our Councils.

My honorable friend from Georgia has been reminded of the Macedonian phalanx. I trust, sir, we shall ever be found associated with a phalanx American, Republican, in heart and sentiment. I will not sacrifice the interests of my constituents for fear of being called hard names. The epithets of quidism, quadroonism, or any other ism which malice or policy may suggest, shall not drive me from the course called for by the public good. I am proud that I represent a people just, generous and independent, not to be carried away by unmeaning clamor. Before they discard a public servant, they will view him both

ion, that the rejection of this bill will give at least a temporary check to the prosperity of the rising State from which I come, I shall give my negative to the motion to strike out the first section. Yes, sir, not only the interest, but importance of that State in the Union is about to be sacrificed. When I look beyond the mountains, and remember that Kentucky has nurtured me almost from my cradle, that she has bestowed on me her choicest honors, my bosom is filled with emotions of gratitude, which impel me to say on this, as on all other occasions, Kentucky, I am only thine!

SATURDAY, February 16.

Mr. CUTTS, from the committee, reported the bill to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation, correctly engrossed; and the bill was read the third time as amended, and passed.

The bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed," was read the second time, and referred to a select committee to consider and report thereon; and Messrs. FRANKLIN, GILMAN, and REED, were appointed the committee.

The bill, entitled "An act for establishing trading houses with the Indian tribes, was read the second time, and referred to a select committee to consider and report thereon; and Messrs. SMITH, of Maryland, FRANKLIN, and BRADLEY, were appointed the committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now lay before Congress the treaty concluded on the 10th of November, 1807, on the part of the United States, with the Great and Little Osage tribes of Indians, with a view to such legal provision as may be deemed proper for fulfilling its stipulations.

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JAMES MADISON.

The Message was read, and laid on the table.

The PRESIDENT communicated a letter from the Governor of the State of Ohio, enclosing a resolution of that Legislature, approving the measures of the General Government; which were read.

BANK OF THE UNITED STATES.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed on the 25th day of April, 1791;" the motion to

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section the principle will be tried, and the Senate, if the motion fails, will go into a discussion of the provisions of the bill. This I conceive a better course, than for the Senate to go into discussion of the details of a subject which would probably be ultimately rejected on the general ground of principle.

The gentleman who introduced this subject spoke with great animation and with great feeling against the press or presses which have undertaken to give their opinions upon this great and important question. He spoke with much warmth, and said that whoever knew him would not believe that he would permit himself to be driven out of his opinion by any man or set of men. There is no man, sir, the least acquainted with the gentleman from Georgia (Mr. CRAWFORD) but will believe his declaration. But another result may be apprehended, that those who feel so great an offence at the freedom the press has taken, may be driven into the opposite course by the irritation of their feelings. Certainly those feelings must have been extremely strong with the gentleman from Kentucky (Mr. POPE) to have induced him to terminate his speech with an oration hostile to the press. Are the gentlemen from Georgia and Kentucky the only Senators who have had their feelings wounded by the conduct of the press upon this subject? Sir, if the gentleman's opinions and sentiments have been censured by one description of presses, he may find consolation in having been greatly eulogized in others. For more than a year those on the same side of this question with myself have had their opinions tortured into every shape to destroy them in the estimation of the people; not only in this session but during the last. Sir, there are some presses in the Union which could not exist, whose papers would not be read, but for the discussion of individual character. Is any advantage to be derived from complaining of this? It results from the nature and temper of our Government, and the best way I have ever found to treat it, is with silent contempt. He who does otherwise engages in the contest at a great disadvantage, and will seldom come out the victor. In the same presses of which those gentlemen complain, I have seen them both eulogized, and properly, for their conduct on the subject of the embargo and West Florida questions.

If the press be an evil in this respect, we must submit to it; those gentlemen who take a high and prominent stand must expect to be noticed. Sometimes gentlemen will be put down by the press, but, their conduct being correct, will more

observation of the gentleman the subject of party would probably not have been introduced at all; and we must indeed shut our eyes or we cannot avoid seeing that this is made a party question, at least on one side. Do you see one gentleman, one solitary gentleman of one party, discriminated generally as Federal, who does not vote for this measure throughout? Do you see one public body in Philadelphia or New York which has a majority of Federal directors or agents, which has not come before you with memorials drawn up with the ingenuity of lawyers, to impose on your judgment? Have not the same party prepared memorials and got the subscription of every one of their caste, bringing forward nearly the same number of petitioners as they have of Federal voters? Have they not done so in Baltimore? Of that city I would say as little as may be, for being a manufacturing as well as a commercial city it has stirred up an animosity in some gentlemen against it not easily accounted for. In Baltimore, on a warmly contested election, the Federal party mustered eight hundred and fourteen votes, all they could parade with their every exertion. To the petition for the renewal of the charter of the bank, there are eight hundred and forty-odd signatures! They have gained some few since the latest contest. Is this coincidence of members, this exclusively Federal petitioning, no mark of party? They have also got one public body in Baltimore to memorialize in favor of the bank; the rest were not to be intimidated by the threats of the Bank of the United States. What, sir, have the other party done? Have they disturbed the quiet of either House? Have they brought forward the mass of their voters as signers to petitions? No, sir, they have trusted the subject to their Representatives, confiding in their disposition and ability to speak their sentiments. The representation of New York, Philadelphia, Baltimore, Norfolk, and Charleston, in the other House, have opposed the renewal of the charter. Every city high in estimation as a commercial city is opposed to the renewal of the charter, except Boston. This speaks with a strong voice what are the feelings of the people; stronger evidence cannot be presented to the human mind. Far be it from me, sir, to endeavor to work up the feelings of party spirit on this occasion; but the thing itself was one of the first causes which created the present parties and separated man from man, and brother from brother. This measure was originally brought forward and adopted when the representation in Congress was not bottomed on an actual supposed census of the people of the United

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nine voted for the bill. It was not, as my friend from Kentucky said, a subject fully discussed or carried by a tremendous majority.

The bank having been formed, it may not be improper for me to take some view of its beginning and its operation. At first its operations were confined to Philadelphia; it extended its branches some time afterwards to Boston, New York, Baltimore, and Charleston. Wherever it extended its influence, dissension commenced; wherever it placed its foot, it became absolutely necessary for the States to erect another bank to counterbalance its pecuniary and political influence. In Philadelphia it began to oppose certain people and turn down their paper. The State of Pennsylvania, in defence of its own citizens, created the Bank of Pennsylvania. Here was a check upon its pecuniary and political operations. I believe I am not mistaken when I say that soon after it commenced in Boston a new bank was established there, from what cause I know not. In Baltimore, sir, it soon taught us a lesson, and we met the lesson as other States had done. Charleston and New York acted in a similar way. Operating as the bank did on the politics of the country before its effects were neutralized by competition, man being man, place him where you will, those concerned in the direction of the bank felt power and exercised it. When the British treaty was pending before Congress the president and directors (as I am informed) themselves carried about a memorial to Congress in its favor, with what view and with what effect may easily be conceived. In Baltimore (until we were able to check them by other banks) its political influence was great. Prior to the great struggle between the parties, in 1798, they did permit one democrat to be within the walls of the sanctuary, (as a director,) a gentleman of as much respectability and independence of character as any one of the direction. He was however (immediately after daring to give his vote in favor of a democratic candidate) put out; and since that time no man of democratic principles has been permitted to enter its walls as a director. Men must shut their eyes to the fact of this being a party institution, when they see that no democrat has been admitted to the direction of the bank but in this city, and New York, where the collector was admitted a director for the purpose of protecting the public money at the instance (it is said) of the Secretary of the Treasury. Can we shut our eyes so as not to see that men hostile to the democratic party, and of course to the success of the administration of the Government, are not the most proper persons to have charge of its pecuniary con-

No man, sir, despises or contemns such conduct more than I do. But on whose side has this intrigue been? It is necessary to put the saddle on the proper horse. Have we gone to insurance companies or corporations of one kind or another? Have we intrigued with the people, to induce them to take sides with us? No, sir, we have been tranquil, we wanted no aid of that kind. Have we sent persons here to intrigue with members, or a deputy to remain here the whole of the last and present session, to explain to Congress the effect of putting down the bank, and threaten them with destruction and ruin to the United States if they passed the measure? No, sir, we have had no one here. Have we stirred up the people into town meetings to aid us by memorials? No such thing, sir. Have we called meetings and induced honest mechanics to come here to influence Congress by idle fears, impressed upon them by those who are interested, to tell a tale that shall answer our purposes? No, sir, we have pursued no such course.

Respectable merchants, I observe, form a part of the bank deputies—for what? To represent the late fall of the price of flour as a consequence of the danger of the bank charter not being renewed, and thereby to alarm the minds of members. I am sorry that men of such respectable character did permit themselves to come here on such an errand. I think I have seen in the papers that one of the manufacturers (now here) on being asked to sign a petition for the renewal of the charter for twenty years, said, he would rather cut off his right hand than sign it; he wished only a renewal for a short time to give the bank an opportunity to wind up its affairs. If this statement be true, and of its truth I have no cause to doubt, it shows the depth of that intrigue which sent this gentleman here, through the instrumentality of his excellent character, to get a renewal of the charter for a period which he never contemplated. These are intrigues for which men ought to blush, and from which, I thank God, we are exempt. At the time these deputies arrived, there were three mechanics of Baltimore here, of character inferior to none, and of wealth inferior to few in Philadelphia, and who would have given a different view of the subject, if they had been asked to appear before the committee. I thought it unnecessary—I wanted no assistance of that kind, no species of intrigue. They did, however, declare, sir, that granting this charter would be a death-blow to the politics of the State of Maryland. They did believe the renewal would be injurious to them, for neither they nor

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pamphlets of that tendency. Has there been anything of the kind on our part?

I will now take a view of a part of the subject, into which, permit me to say, I have been pressed by other gentlemen, to wit: What has been the operation of the bank in regard to the collection of duties prior to 1800? Prior to the institution of the bank, the collectors took the bonds of the merchants for duties, received the money, and deposited it for safe-keeping in the State banks, where there were any. After the bank was erected, it had, for some time, but two branches; still the revenue was well collected, I am informed, where the branch banks of the United States were not as where they were, and yet, it is said, we cannot have that reliance or confidence in the banks of the States as we can on the branches of the Bank of the United States. The gentleman from Massachusetts told us that in five New England States there was but one solitary branch bank; and I could not find from anything that the gentleman said, that he apprehended any distress would overtake the New England States. The gentleman from Kentucky (Mr. POPE) told us that, in Boston, the branch was the great bank of deposit; that in the trifling out-ports it was not of so much consequence to have branches, the whole collections being drawn into the branch bank at Boston. In order to show that there is an absolute necessity for these branch banks in the collection of the revenue, the gentleman (Mr. POPE) ought to show that the company can place a bank wherever money is to be collected, without enlarging the present capital; for, if it were extended beyond its present amount, his conscience would be pricked; for, if I understood him, he does not advocate the constitutionality of the bank, if its capital was extended beyond what he supposes to be necessary.

[Mr. POPE said his idea was, that a bank of thirty millions must extend its branches where there was no necessity for them, and where banks of another description were competent to all the ordinary purposes of society.]

And, of course said Mr. S., if the capital extended beyond the limits of the gentleman's idea of necessity, it would be doubtful whether it was Constitutional or not. Can a ten million bank extend itself, as the gentleman contemplates, to every place where the United States have moneys to collect? In the State of Massachusetts there are twenty-three collection districts: Boston owns eighty-three thousand tons of shipping; the only branch of the United States' Bank in the State is in Boston, whilst the other ports of that State own two hundred thousand tons of shipping; com-

merce in Massachusetts, none of which have a branch bank, and yet I am informed from high authority that there are no towns in the Union where the revenue is better collected than in those towns. The branch bank at Boston, then, may be considered as a treasury chest, and has nothing to do with the collections; an office where the Secretary of the Treasury keeps an account to know whether the State banks transmit the money properly to Boston or not. I have been informed, sir, by the Comptroller of the Treasury, that nowhere are collections better made than where there is no branch bank. It is among the most ridiculous of all ideas, to say that the bank has any influence on the payer of the bond. The influence on the payer, is this, and this only, that, if the merchant does not pay his bond when due, he has no longer credit at the custom-house; he is compelled thereafter, and until his bond is paid, to pay the cash for all duties, and in that way only does he suffer. I agree with the Secretary of the Treasury that the creation of banks has contributed to produce greater punctuality of payment; but this arises as well from the State banks as from those of the United States. A note given to an individual now must be paid, or the credit of the signer is lost; but that has no operation as to the collection of the revenue. In case of non-payments of bonds, what course does the bank pursue in relation to custom-house bonds? The same as with ordinary notes. If the bond be not paid when due, the cashier returns it to the collector, who puts it in suit. The bank is a mere place of deposit for the safe-keeping of the bond, and has no farther interest in or discretion over it after its payment is refused. There are in the United States, including the Territories, ten banks, emanating from and including the mother Bank of the United States; and without these banks we are told the revenue cannot be collected. This does appear to me to be one of the most extraordinary arguments that ever entered the mind of man. Let us examine it. In the State of Massachusetts there is but one bank to collect from twenty-three ports, possessing, independent of Boston, one-fifth of the whole tonnage of the United States. There is no bank of the United States in Connecticut, and yet Connecticut pays her duties as punctually as any State in the Union. There is no branch in Rhode Island, and who ever heard that Rhode Island did not pay her duties punctually? Maryland has eight ports and but one branch. Virginia has eleven ports and no branch, but a little one at Norfolk, whose operation is confined with-

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were no branch banks, as where they have existed. Let me tell the gentleman, (Mr. POPE,) that the banks of the United States afford no facility in the collection of the revenue that it is possible for them to avoid. I state this, as deducible from the report of the Secretary of the Treasury. He states that there is in the Bank of Manhattan one hundred and eighty-eight thousand dollars of the public money. From what cause did it get there? The truth, it appears, was, that the branch bank of the United States in New York refused to receive Connecticut or Rhode Island paper, and the Secretary of the Treasury was compelled to deposite it in the Manhattan Bank, which bank agreed to receive that paper. Here, then, sir, we see that a State bank, although it gains no advantage from the deposite of New York, yet has accommodated the Treasury by taking and accounting for the bank paper of Connecticut and Rhode Island and placing it in a situation in which it can be made use of with facility. Again, we find that, in Georgetown, the Bank of Columbia has a deposite of \$115,000 of public money. How did it get there? The Secretary informs us in his report; "that the depositories in the Bank of Columbia arise from occasional drafts on some collectors in Virginia, and from the receipt of moneys, paid at the Treasury for lands, patents, &c., in bank notes not receivable at the office of discount and deposite, Washington." That is, sir, the branch bank of Washington refused to receive Virginia paper from those collectors, and refused to give any aid or assistance in the collection of the revenue, except that which went to their own emolument. Not so with the Bank of Columbia; it opened its vaults to all, and if any man desires it he may deposite in the Bank of Columbia the paper of Virginia, Maryland, or Pennsylvania, and the cashier will give him a check on some of the banks of those States for the amount. This they will not do in the branch bank. Do gentlemen suppose that the notes of the United States' Bank pervade the whole United States? No, sir, they do not. Does a gentleman, representing Ohio, bring bank notes of other States to pay for his constituents for land bought of the United States, or debts due in Philadelphia? Can he go to the branch bank and pay them? No, they are not bank notes of the United States, but of the individual States, and the branch bank at Washington will refuse to receive them. The Bank of Columbia, on the contrary, will receive them, and will, if he wishes, pay the money in Baltimore, Philadelphia, or New York, or will pay it here into the

There has been one great mistake entertained by a gentleman (Mr. LLOYD) with respect to New Orleans. He supposes that there is no Territorial bank in that city, and asks how the collection of duties will be made without one. The Bank of the United States there has a capital of only \$300,000, that of the Territory has \$600,000, as good a bank too as any in the United States. And, notwithstanding what has been said, the banks of New Orleans are in as good credit, and have more specie, in proportion to the population of the city, than any banks in the United States. If we should be fortunate enough to obtain a majority for destroying this bill the gentleman need be under no apprehension for any injurious result arising at New Orleans. The public money will be as safe there as in any bank, and we shall find as honorable men directors of the Territorial bank as in that of the branch bank of the United States established in that city.

There is scarcely an evil which has not been attributed to the embargo, and which is not now, with as little justice, attributed to the expected non-renewal of the bank charter. Great failures have lately taken place at New York; bills of exchange on London, to a large amount, have returned protested, and the drawers are not able to pay the holders, and to the present critical situation of the bank some gentlemen attribute the distress brought upon those who have suffered by these failures and protests. But, Mr. President, what is the real cause of those failures? They are confined principally to New York, and may be attributed to the following causes: It is natural for men born in Great Britain to entertain predilections favorable to a commerce with that country, their connexions, as well commercial as of family, are there; their credit is there; and, from those causes, the house which has failed, and carried so many others with it in its fall, has probably directed the principal part of its commerce to England; they have, no doubt, shipped cotton and tobacco, the trade in which being in a great measure confined to Great Britain, the natural consequence has been, that the markets of England were completely glutted; tobacco, except the very fine Virginia, scarcely paid the charges of freight and commission, and the loss on cotton must have been nearly fifty per cent. The consignees, under those circumstances, refused to pay the bills drawn upon shipments of those articles. The bills returned protested, and ruin to the American shipper has been the consequence. At any other time the English merchants would have accepted the bills, and held the cargoes for a better market; but, at that time, ruin stared every

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York and elsewhere, to wit: the seizure, detention and confiscation of property in Denmark, Prussia, and France, of ships and cargoes to the amount of many millions, on the proceeds of which cargoes merchants calculated to meet their engagements at home, and to meet their bills drawn on London. For, sir, the merchants who make large shipments to the Continent, order the greatest proportion of their proceeds to be remitted from thence to London; and, on the expectation thereof, draw bills on their friends there. Disappointment has been the consequence of such seizures and losses; protests of such bills and ruin has followed. But, Mr. President, we might with as much propriety attribute the late great failures in England and on the Continent to the expected non-renewal of the bank charter, as those which have happened in New York, or the present distress of the merchants in the United States. The returns of the bills protested, to so large an amount, of course destroyed the merchant's credit at bank; he failed, and, by his fall, has caused the ruin of others. When a great house fails, it is like a game of nine pins; knock one down and it will probably carry with it four or five others.

When the honorable gentleman, who was up yesterday, made an observation on the remarks of my friend from Tennessee, (Mr. ANDERSON,) he certainly was not warranted in what he said. He supposed that my friend from Tennessee gave a vote at the last session different from that which he should give now. I can only say for him that he (Mr. ANDERSON) then said, uniformly, "make your bill as good as you can, but I shall vote against it on Constitutional grounds." He wished the bill perfect, if it should pass, though he was fully determined to vote against it.

We have been told, Mr. President, in case the charter should not be renewed, that we shall find in future great difficulty in obtaining loans. What loans, I ask, have Government ever received from the Bank of the United States? I recollect, when I first entered Congress, that Government were indebted for loans made from the bank, but I also recollect that the bank complained of the loans as an inconvenience, and that Congress took the earliest measure in their power to pay them off, and have, since that period, made no new loan from the bank until that made payable the first of January last. I will not inquire whether even that loan was necessary, but I will venture to promise, sir, and will give any security that may be required, that the State banks will give a similar accommodation, to wit: If the Secretary of the Treasury will deposit with the State banks two millions five hundred thousand dollars of the public money (the amount of the late loan,) then

merchants if the bill now before you shall pass; and if, agreeably to its provisions, Congress should (at any time hereafter) call on the bank for the loan of four millions promised by the bill? If, sir, a lessening of their discounts one-tenth per cent. creates distress, what will be the consequence, when, by a loan of four millions, called for from the bank, the bank shall be compelled to lessen the discounts four-tenths?

But, sir, the promise to lend four millions from a bank of ten millions is idle; it is worse, it is deception on the face of it. The loan, if made, would not be from the bank but from the merchants, whose discounts would thereby be lessened, and whose ruin would follow.

We are told that, if the charter of this bank be not renewed, and the funds of the United States be deposited in the State banks, it will be extremely unsafe, because, it is said, we can have no control over them. And, I wish to know, sir, what control we have over the Bank of the United States? None, but the same as we may have over the State banks. We cannot check the operations of the Bank of the United States, and if they obtain this charter, they will know that they can have their charter renewed whenever they please; so that, the fear of a non-renewal of their charter will have no operation on them in future. You will have a much greater control over the State banks, because you are under no obligation to put money in them, and you can change them whenever you think proper; the danger of losing the public deposits will always be a sufficient control over their conduct. The security of the State banks is doubted, however; and we are told, very gravely, indeed, that there is much more security in the mother bank, and her nine children, than in ten independent banks. This I must deny. I should, as a merchant, place more confidence in ten independent houses than in one with nine branches.

At this point, Mr. SMITH—being unwell—gave way for an adjournment.

MONDAY, February 18.

Mr. LEIB presented the memorial of Ralph Ed-dows, stating that he has a considerable quantity of merchandise imported in the ship *George Washington*, whereof Luderic Krumbhaar is owner, and which is now under detention, as having arrived subsequent to the revival of the non-intercourse law, and praying relief, for reasons stated at large in the memorial; which was read, and referred to the committee to whom was referred, on the 7th of December, so much of the Message of the President of the United

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The Senate resumed the consideration of their amendments, disagreed to by the House of Representatives, to the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio; and to authorize the Register and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearl river."

Resolved, That the Senate recede from their amendments, disagreed to by the House of Representatives, to the said bill.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed," reported it without amendment.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory, and the bill was ordered to the third reading.

BANK OF THE UNITED STATES.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed on the 25th day of February, 1791."

Mr. S. SMITH said he was not in the habit of asking the indulgence of the Senate, but on the day when he spoke last he had been very unwell. He then had occasion to observe, in answer to the arguments of gentlemen, on the course of proceedings by the bank on its first establishment. It has been observed, said he, by an honorable gentleman from Kentucky, (Mr. POPE,) "that the question on the Bank of the United States was not originally a party question, and had not excited much sensibility at the time." When first this question came before Congress, sir, it excited not a little sensation. The doings of the convention having been recent, were then fresh in the minds of such of the members of Congress as had been in that body. To them it was well known that an unsuccessful attempt had been made in that convention to give the power of creating charters. The subject, it is well known, was very fully and amply discussed on the passage of the charter. The honorable gentleman from Georgia has, in the course of his argument, disclaimed all authority, and depends (as every gentleman should) on a fair construction of the

are powerful authorities. General WASHINGTON, it is true, signed the charter, and gave it the sanction of his name and authority. But let it be recollected, sir, that General WASHINGTON demurred on the bank bill till the last hour of the ten days, and that he signed it reluctantly at last. He took the opinion of the then Secretary of the Treasury, Mr. Hamilton, on the subject; it was an able one, and he being at the head of the Treasury Department, it had in consequence a powerful effect on the mind of General WASHINGTON. It was as ably resisted in point of argument by the late President of the United States; and however high may be my opinion of the talents of General Hamilton, I must venture to believe, that in point of a discriminating mind, Mr. Jefferson was no wise his inferior. The charter, also, was opposed by the then Attorney General of the United States, (Edmund Randolph,) a man inferior to few in point of legal knowledge; and but for the impression made on General WASHINGTON by General Hamilton, (whose being at the head of the Treasury Department added great weight to his opinion,) he probably never would have signed it. In the discussion of that question a very able part was taken by Mr. Madison. The name of that gentleman as President of the United States has been made use of by the gentleman from Kentucky; I am not certain that we are entirely in order when we undertake to bring into debate the name and opinions of the President of the United States. It having, however, been done, I should presume that I shall not be out of order in pursuing the same course. The arguments of that gentleman on that occasion add another wreath to his fame. Neither was its rejection less ably advocated on that day by my friend from Virginia (Mr. GILES.) In point of authority I produce these, as at least equal to those brought forward by my friend from Kentucky. We are therefore left, as we ought, to exercise our own judgments on this instrument itself, the authorities being counterpoised.

I have already, sir, taken a short view of the course of the proceedings by the bank for the collection of the revenue. Permit me to pursue that point. Prior to the establishment of any branch bank in the United States, the collectors, as I have already stated, did collect each for himself; and, after the money had been so collected, they paid it over into the banks, either of the States or the United States, where it was deposited for safe-keeping, the banks being accountable to the Treasury for the amount. There was no difficulty at that time that I ever heard

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United States had been created. No use, I repeat, whatever (for nine years of its existence) was ever made of the bank or its branches for the collection of the revenue; they were mere places of safe deposit. If they were necessary and all-essential, why were they not necessary and equally essential at all times? Was not the revenue equally as well collected for the first nine years of their existence as it has been since, and with as little loss to the public? In one thousand eight hundred, a bill was brought in and passed. If my recollection serves me, I was the author of it. My object, whether I was the author of it or not, was not to aid the collection of the revenue. Such an idea never entered my mind. I knew the collection of the revenue was then well made. What, then, induced me to bring in or advocate that bill? It was this: the collectors gave bond and security when they entered the office; I feared that they might aid those gentlemen who became their securities, and from time to time lend to them (for their private uses) the public money. It appeared to me that it was to the private interest of the collectors, as well as the public interest, to deposit the bonds taken for the revenue in the great towns within the banks of the United States. Prior to 1800, the collectors took the bonds themselves and kept them in their offices. To put it out of their power (if they were so disposed) to lend their friends the public money, I was induced to support that bill; and I have no doubt that it did save the public money in some instances from the effects of the failures in 1798. The bonds in the six great towns were, after that, as the law of 1800 directed, deposited in the bank and its branches, and collected by a short notice being sent from the bank to the merchant, to wit: that his bond became due on a certain day, and the bonds were ever after paid into those banks. The banks had no instrumentality whatever in obtaining (except in that way) payment of those bonds. Compulsory process was not found in the Bank of the United States, but in the revenue laws; if the debtor did not pay the bond when it became due, he lost all credit at the custom-house, and must thereafter pay cash; he is put under the ban. This is a lien on his punctuality, and it is such a lien as secures to Government the punctual payment of the revenue. However unable the merchant may be to pay the debts due to individuals, every exertion will be used by him to pay the debts due to the United States for his bonds. I trust that from this practical exposition of the operation of the banks, (and as far as my information goes, I am bold to say it is a correct one,) that no gentleman will doubt that State banks will be as efficacious in the collection of the revenue as the

territory, consisting of a capital of \$600,000—a bank as well and as honorably conducted as that of the United States. For a draft of the Paymaster of the Army of the United States on that bank, the deputy paymasters will have the option to take either paper or hard dollars. I may add, that the Territorial bank paper is as well received and in as good credit as the paper of the branch bank at New Orleans. How is your Navy generally paid off? By a Treasury warrant on the Bank of Columbia, (which is not a branch bank,) and which is paid in branch or other paper at the option of the holder. Would this paper by such means be made a coin of the United States? No, sir, it would have no such effect. If, however, the purser of the Navy should ask specie for his Treasury warrants, the Bank of Columbia would give it to him; it is at his option to take the one or the other. In like manner your public officers will be paid.

In what paper, the gentleman asked, will your duties be collected? In that kind of paper which the collectors or the Secretary of the Treasury will think as secure as that of the United States. If a merchant offers to pay his bond with paper not approved of by the cashier of the State bank, (where the bonds are deposited,) he will refuse to receive such paper. What will be the consequence? The merchant must pay approved paper or specie, or his credit will be lost at the custom-house; the consequence I have already stated. As I have observed, sir, let the gentleman look into the respective States, among the farmers, merchants, and planters, of the interior, and see what proportion of the paper in circulation is that of the United States—I venture to say not one for ten; and it arises from this circumstance, that the agents and factors of the farmers and planters do business principally with the State banks.

But, Mr. President, some kind of inconvenience, it is thought, will result from the dissolution of the bank, because its paper is an universal medium. Sir, there will be an understanding between the banks of the different States; and the Secretary of the Treasury tells you that arrangements are nearly completed to attain that object; the Secretary does not complain of the inconvenience that some gentlemen appear to apprehend. I am of opinion that the more accounts the Treasury opens with the State banks the easier will be the transmission of the public money. What is the present mode of making remittances by individuals from New York to Richmond? A merchant in New York wishes to purchase five hundred hogsheads of tobacco in Richmond. If he applies to the branch bank, and says he wishes to make a remittance for the purpose of purchas-

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\$100,000 at New York. They have it not there, but have it however at Richmond. All the Secretary of the Treasury will have to do, will be to direct the cashier of the Virginia Bank to send \$100,000 to New York. It is done every day for individuals, and no inconvenience is experienced. Suppose a merchant in New York wants to buy a cargo in Baltimore; he applies to the branch bank in New York, takes out their notes and sends them to Baltimore to buy his cargo; he will apply to the branch bank of Baltimore, and say, "here are notes of the branch bank of New York, give me money for them?" No, sir, the cashier will not receive them, the branch bank will not take the paper even of the mother bank. They may do it to oblige particular gentlemen, but they are not obliged to do it. I have said that the paper of the mother bank is not a payment to the branches; nor are the bank notes of the branches to the mother bank. Each branch is bound only to receive its own paper, and not that either of the bank or any of its branches. For instance, lately (as I am informed) the branch bank of Baltimore being called on by the mother bank for specie, applied to the Union Bank for specie, for a debt due by that bank of \$50,000. Assigning as a reason that they were called upon for specie by the mother bank. The cashier of the Union Bank said, as was natural, we have notes of that bank to the amount of \$100,000, we will pay you in them; her own paper will certainly be as good a payment to her as specie. No, was the answer; you must give the specie; and the specie was paid. The Union Bank was in consequence compelled to send to Philadelphia at its expense, for payment of the notes which it held of that very bank. A similar transaction (I have been told) took place between the Mechanics' Bank of New York and the branch bank of that city. I state these cases to show that the paper of the mother bank is not a universal medium, not even payment to her own branches; whereas, in the understanding which exists from Richmond to the Bank of Columbia, from the Bank of Columbia to the bank in Baltimore, and thence to New York, the paper of each will be received by each, and when too great a balance exists against either, its paper is sent to the debtor bank, for which it returns specie. I cannot believe that any gentleman can seriously suppose that bank paper can be considered as coin. It is true that by your law all the paper of the mother bank and its branches, is receivable in payment for duties; but it is not a currency in all cases, because it is not a tender in any, except for duties, and if I owe a note at the branch bank

willing to place his faith on the great talents of the head of the Treasury. I am not going to contest the talents of the Secretary of the Treasury. Nor have I the smallest objection to his letter on this subject as respects the information it has given. I respect it as that of one of the high officers of our Government, and hope I never shall be found (from any fortuitous circumstances) to doubt its due authority. I shall treat it as I would all the reports from the heads of departments, with respect; but I will not be bound by the report or pin my faith (as my friend from Kentucky, Mr. P. proposes to do) on the sleeve of any man breathing. I did not object to this letter, but I had an objection to bringing in by committees a support of this kind, which is to have the preponderating force of a report of the head of a department, to the aid of gentlemen on that side of the question. I did state, and now repeat it, that in 1793 and 1794, so powerful an instrument did such reports become, in support of improper measures, that the House was offended, and the Secretary of the Treasury (Mr. Hamilton) was compelled to confine himself ever after to the handing in reports stating facts, without being allowed to give opinions and to use arguments in support of them. An intimation was given by a resolution of the House, and we had afterwards no arguments sent to us by the Treasury. We received facts, statements, and documents, and were permitted to form our own opinions. A course however has been latterly taken in our proceedings which fully justifies the honorable gentleman from Georgia in the course that he has pursued as chairman, and will also justify the Secretary of the Treasury in the greater part of his letter. I am not to be understood as having (on a former occasion) cast censure on the Secretary of the Treasury for writing the letter; it became his duty to answer the inquiries of the chairman of the committee; he did so. But the letter is now before us, and having been referred to by the gentleman from Kentucky, I will take it up in its parts, and in doing so I have no disposition to inflict the least wound on the feelings of the Secretary of the Treasury. He begins with saying. "Having already in a report to the Senate of March 20, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday." Here then, sir, he bottoms himself and his opinions on the report of 1809, for a national bank—a bank truly national, not of the limited

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opposed. If the letter of the Secretary be the authority on which my friend wishes to bottom himself, he ought to take the whole of it. The Secretary does not mean by that paragraph to advocate a simple renewal of the charter, but a national bank, capable of extending its ramifications into every State, and placing branches in every State and town where large collections of public money are made. That being the view of the Secretary of the Treasury, I wish we had known how at the last session to have drawn out his aid in support of his own measure. Again, the Secretary says, "The banking system is now firmly established, and in its ramifications extends to every part of the United States. Under that system the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe keeping and transmission of public moneys." Here the Secretary says, the banking system has extended its ramifications in every part of the United States. True, sir, but it is not the banking system of the United States; that system only affects a few cities. What then are the ramifications he alludes to? The State banks, through whose instrumentality collections have been made with as much honor, punctuality, and correctness, as by the Bank of the United States, and with more facility to the Government, because those banks will receive the paper of other banks in payment; whereas the branch banks will not.

"That the punctuality of payment is principally due to banks is a fact generally acknowledged." That is, sir, that the banking system has introduced punctuality between man and man, which has created a regularity in all pecuniary transactions. The Secretary, however, certainly cannot mean to attribute that punctuality to the Bank of the United States, but to the general system of banking. The sentence is, however, ambiguous.

"Its punctuality is to a certain degree enforced by the refusal of credit at the custom-house, so long as a former revenue bond, actually due, remains unpaid." Here, sir, I disagree with the Secretary. Punctuality in payment is not in a certain degree enforced by a refusal of credit at the custom-house, but by that alone. The refusal of credit at the custom-house is alone the real enforcing cause. It was not therefore wise or correct in the Secretary to insinuate that it was only in a certain degree. The loss of credit at the custom-house will always compel the merchants to pay their bonds to the United States, however they may deal with individuals.

The Secretary then goes on to state that, "he thinks nevertheless that in order to insure that

so the Secretary of the Treasury; the sentence is ambiguous, but he must mean that if there were no banks of any kind, punctuality between man and man would not be so assured, and the merchants would not be so competent to meet their engagements, as they would if aided by banks.

"State banks may be used," (says this report:) "and must, in case of a non-renewal of the charter, be used by the Treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted through their medium, with less convenience, and in some respects with perhaps less safety than at present, but without any insuperable difficulty; nor will the United States have any other control over the manner in which the business of the banks may be conducted than what may result from the power of withdrawing the public deposits."

What inconvenience can there be? None that I can imagine, nor will there be any. The safety will be the same, for let me again repeat, that the Treasury has no more control over the Bank of the United States, under the law as it now exists, than it will have over the State banks. What control (it may be asked) will the Treasury have over the State banks? A powerful one, in my opinion. If it do not appear that they are conducting your and their affairs safely, the Secretary will take the public deposits from such and place them in others: you can thus operate powerfully on the interests of those with whom the public deposits are made. Have you more control now over the Bank of the United States? No, sir, not so much, for the law compels the Secretary to deposit the public bonds with the Bank of the United States and its branches, and he has no power to withhold them.

I am bold to say, sir, that the State banks are conducted with as much prudence and as much security in the large towns as that of the United States. In Virginia, as I have already stated, there is a trifling branch of the Bank of the United States, of \$300,000 dollars capital. That branch is in a corner of the State, with which the people of Virginia have very little intercourse. Their great intercourse is with the banks of Richmond and Fredericksburg. What is the state of the specie of the Bank of Virginia? It is superior to that of the Bank of the United States. I believe the capital of the Bank of Virginia is one and a half millions of dollars; it has near two millions of dollars in its vaults at present—it generally divides eight per cent.—the last dividend was ten. Here then is a dividend greater than that of the Bank of the United States; and the Bank of Virginia has none of that check from the

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the Bank of the United States was necessary to keep the State banks in check. I do not know what species of directors they can be who tell us that it is absolutely necessary that we should have the United States' Bank to check them and keep them from injuring themselves. It is the old doctrine of Mr. Morris revived in a new form, that the people are their own worst enemies. Can it be believed that the directors of any bank would state that the Bank of the United States was necessary to check them? If it be so in Philadelphia, it is certainly not so in Richmond, where they have not this check. So far from the branch in Virginia keeping the State banks in check, the Bank of Virginia always keeps the branch at Norfolk in check. The Secretary does not give his positive opinion on the competency of State banks to the transmission of revenue, &c. but says, "it may be added, that even for ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State, and that loans to the United States are by many of the charters forbidden, without a special permission from the State." If there be any such charters, the Secretary of the Treasury need not make use of the banks which have them; he may find enough of banks that can give ample security. As for the ordinary and extraordinary business of the Treasury with the banks, I have already shown that for the ordinary business the State banks can do it as effectually and with as much security as has heretofore been afforded by the branches. The Secretary then goes on, sir, to give his opinion in direct contradiction to the bill before you, and shows that whatever reliance gentlemen may have placed on his authority, they have not reported a bill in conformity to it—

"It does not seem necessary to advert to the particular objections made against the present charter, as those may easily be obviated by proper alterations. What has been called a National Bank, or, in other words, a new Bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of 2d March, 1809; and any other modifications, which may be thought expedient, may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country."

This project, sir, was tried at the last session. We unfortunately did not get the aid of my friend from Kentucky. It was then agreed to merge the whole capital of the Bank of the United States in a National Bank, but rejected by the bank

considered by his friends a very great man in fiscal operations—in commercial matters, I may be permitted to have opinions of my own, and to differ from him (without offence to my friend from Georgia) on a question simply and exclusively commercial. Now, sir, where is the difficulty of sending these seven millions (owned by foreigners) to Europe? There is no more difficulty, I answer, than for the merchant who owes seven thousand dollars in England to remit it. This seven millions will not be taken out in silver or gold to send to England, as is feared by gentlemen. No, sir, men do not carry political enmities to the extent to injure their own interests. The foreign stockholders will not remit specie, because, if they do, it will cost them from five to seven per cent. If they do not remit in specie, how will their funds be conveyed to England? By the most plain and simple mode that can be. The agents of the British stockholders will do one of two things; they will vest the funds in the State banks, or funds of the United States; or direct their agents to remit the amount in bills of exchange—and how will that be done? By buying bills of exchange, which, for every ninety pounds paid here, will yield them one hundred pounds in England, because bills of exchange are ten per cent. below par, and there is no chance of their rising. As they can make this gain by bills, does any man conceive that they will not thus remit their money, if remitted at all? Well, sir, gentlemen will perhaps again ask—can we spare this money from the United States, and will it not injure the young industrious mechanics and ruin the agricultural interest? Those are idle fears; an exchange of property will take place. The American merchants have at this time more than double the amount (of these seven millions) now in, or which soon will be in, the hands of the English merchants, which they will be glad to transfer by bills to the British stockholder for his funds in the stock of the Bank of the United States, and thus the English stockholder will receive the amount of his stock without one dollar of specie being sent out of our country, and the funds of our merchants now in England will thus replace the funds of the English stockholders.

Here follows an apprehension of the Secretary founded on false premises. He says: "And without adverting to other possible dangers of a more general nature, it appears sufficient to state, that the same body of men who owe fourteen millions of dollars to the bank, owe also ten or twelve to the United States, on which the receipts into the Treasury for this year altogether depend; and that, exclusively of absolute

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their business with the State banks, and of course cannot be those who are stated as debtors to the Bank of the United States. Some of my friends, for whose opinions and persons I have an unbounded respect, are still apprehensive that great distress will result for want of the usual discounts to the merchants of the United States in case of a non-renewal of the bank charter. The fear is an idle one; it will be precisely the old story of the green ass. It will be remembered nine days, and not much longer. The course of proceedings will be this: The Secretary tells you that arrangements have already been made to transfer the money from the Bank of the United States to the State banks. I believe they are in full operation. He will take three millions of dollars (the public money now deposited) from out of the Bank of the United States, and put it into the State banks. Add thereto above four millions of deposits, the property of the merchants, which will also be taken out of the Bank of the United States and put into the State banks. That is, seven millions of dollars will be immediately drawn from the Bank of the United States and placed in the State banks. Upon this money the State banks will feel themselves justified in going into larger discounts, and, upon such funds, will be able to take up all good paper thrown out by the United States' Bank in consequence of the non-renewal of its charter. Were I a negotiator in the Bank of the United States, and had I great discounts in that bank, and were the moneys transferred, as I have suggested, I should have no apprehension, and should put my paper in the State banks, into which the deposits are removed, with a full confidence that it would be discounted. This, then, is an idle phantom, raised to deceive gentlemen who are not particularly acquainted with the business. What is the reason, sir, that none of those fears, those horrible terrors (presented to our imagination) are felt in Baltimore? The merchants there, generally, are of the Republican party, and feel none of those fears. And yet, sir, we are told of the great distress, and almost led to believe that universal ruin will ensue. The distress will not be felt sixty days after the 3d of March. If felt by any, it will be by those who can now pay five shillings in the pound, and who, if they go on three months longer, would not pay sixpence. We are told that this bank has been honorably, correctly, impartially, and fairly conducted. The honorable gentleman who made this declaration assured us that he was not versed in the subject of banking; and this was at once giving a most convincing reason against his opinion. He receives the opin-

and am bound to believe the information the gentleman has given as to the well-managing of the branch bank there. By the well-management of a moneyed institution, we understand an attention to the advantage of the stockholders. In that point of view, no doubt, the bank has been well managed. I have a letter, which goes to prove, to my satisfaction, that the branch at New York has not been managed with all that impartiality and correctness which has been stated by the deputies from Philadelphia. I will read an extract therefrom; the writer is a gentleman whom I highly respect, of mild manners, good sense, and great respectability. He says: "I can speak from experience to this fact, impartiality. I have employed a capital of between two and three hundred thousand dollars in trade here (New York) for several years, and from being considerably engaged in navigation, my bonds for duties to the United States have amounted to many thousands a year; yet I can aver that the branch bank has never aided me in the payment by discounts, or otherwise, while the Manhattan Bank has freely discounted the paper which the branch rejected, merely by reason of the contamination of passing through Republican hands." I know nothing, Mr. President, but from such information, as to the partiality or impartiality of the bank at New York, except from common fame, who is sometimes said to be a common liar; still some confidence is due to general report. In Philadelphia, it is said that the bank has been impartially and honorably conducted; and I will not doubt the gentleman's words. I do not know what it has done lately, but, some years ago, I heard such a detail of its conduct as was no proof of the allegation. In Norfolk, I will venture to say, that the conduct of the bank never was considered impartial; and I had a letter last year from a highly respectable merchant in that place, which, if now in my possession, would have proved the contrary. In Baltimore, sir, we have heard it said in another place, that the bank discounted as much for Republicans as for Federalists. I cannot contradict this; I cannot, because I have not seen their books; but I believe there is not one Republican in Baltimore who will give his assent to that information. If it were the case, I could not well have failed to know it. We ought not, sir, to place entire reliance on the information of interested men. We were told, but a few days ago, and the information was derived, I believe, from the same identical letter as the stated information, "that the Union Bank of Maryland was the first bank which refused to receive foreign gold." I have inquired into that

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' which was the first bank that refused to take it ;
' and can only state, for ourselves, that we contin-
' ued to receive and pay it, at its usual value,
' (with one or two exceptions,) the amount not
' exceeding \$200 or \$300 difference, until the
' House of Representatives refused to agree to
' your resolution on that subject in the Senate.
' On the 30th of October last, we received from the
' Bank of Maryland, \$10,000, without deduction,
' as you will see by the enclosed certificate." I
state this fact, sir, at this time, only to show how
cautious gentlemen ought to be in placing reli-
ance on information of this kind. It is impossi-
ble for me, living as I do in Baltimore, to believe
that the Republicans have experienced impartial
conduct from that bank.

We have been told, sir, that the high improve-
ment in the agricultural State of Pennsylvania is
to be attributed, in a great measure, to banks,
particularly to the Bank of the United States.

The gentleman (Mr. POPE) called upon us to
remark the difference in the improvement of cul-
tivation between that State and others, and to see
what the State owed to the institution of banks.
I have no doubt, sir, that the institution of banks
has contributed as well to the prosperity of agri-
culture as of commerce ; but this effect has been
much more produced by the State banks than by
the Bank of the United States. Has Connecti-
cut any branch of the United States? None ;
and yet the honorable gentleman from Kentucky,
when he travelled through that country, could
not have failed to see as high a state of cultiva-
tion there as in Pennsylvania. Now, sir, on the
other hand, the State of Maryland, which has
the *enviable* advantage of a branch bank of the
United States, in addition to her immense capital
in State banks, has not as yet progressed to that
high state of cultivation witnessed in Pennsylva-
nia. This, more probably, proceeds from the tem-
per, habits, and climate, of her population, than
from the cause assigned by Mr. P.

We are told, Mr. President, there is a prodigi-
ous scarcity of money in the great cities. Money,
Mr. President, like every other commodity, will go
where it finds its best market ; and if, in the State
of Virginia, there be a better market than in
Philadelphia, there will it go, and there it has
gone. In Virginia they have what will command
money, wheat and tobacco ; and the merchants
from the great cities were obliged to go there for
those products, where they could buy cheaper
than they could at home. What was the conse-
quence? Money went where it found the best
market, and that was in Virginia ; the fact is
proved from the quantity of specie in their bank.

the discussion, that United States paper is the
only universal medium. In the interior we find
the paper of the State banks, and of the State
banks alone, in circulation.

In the animadversions of the gentleman from
Massachusetts, in order to enforce his argument
and to show the danger which will result to
State banks, he brought forward an example
very strong in point, viz: that an agent of one of
those banks sent here for the purpose of obtaining
those deposits had decamped from this city on
hearing of the failure of a great broker, which
endangered the bank, of which he was a director,
to such a degree as to depreciate the value of its
stock twenty per cent. [Mr. LLOYD said he had
stated it as a rumor, for the authenticity of which
he would not vouch.] I was going to say (ob-
served Mr. S.) that, from the high opinion I en-
tertained of the delicacy of that honorable gen-
tleman on every subject touching the credit of a
bank, I was convinced that, unless he had proofs
as strong as those of Holy Writ, he would not
vouch in such a case ; that he would be cautious
in giving such a thing as truth, unless he knew it
of his own knowledge. As to the statement
which he made, there must have been some mis-
take. One week before the gentleman in ques-
tion left this city, he gave notice that he should
go away on Thursday. He did go on that day,
and had previously applied to the Secretary of
the Treasury for a share of the deposits of the
Government, and produced a report from his
bank to show the substantial character of the Me-
chanics' Bank. The account of the failure of the
broker, Mr. Judah, did not arrive until two days
after the gentleman alluded to had left this city.
He could not, therefore, have returned to New
York on that account. What is really the fact?
The Mechanics' Bank of New York stands on as
substantial a foundation as any bank in the Unit-
ed States, and has, in proportion to its stock,
more specie in its vaults than any bank I know,
except that of Virginia. Mr. Judah did fail ; but
the stock of the bank did not experience a more
unusual fall than that of other banks. The great
failures at that time staggered every man for his
own safety. The banks looked around with cau-
tion. The value of the stock in every bank ex-
perienced a depression. At that moment the
Mechanics' Bank paid its dividend of $4\frac{1}{2}$ per
cent., and the stock which was worth 20 per cent.
above par did go down to $15\frac{1}{2}$ per cent. What
was the loss, at any rate, sustained by this great
broker? The Mechanics' Bank, I understand,
will not lose two thousand dollars by all the fail-
ures ; by Mr. Judah not a dollar. On the contra-

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in any other part of the Union; and because the people of the whole Western country send their products there for sale, and do not press the merchants too much in return. One reason has been assigned (by Mr. LLOYD) why we should renew this charter, that, in this city, loans have been made to the amount of \$400,000, which are expended in canals, houses, bridges, and improvements; and we must renew the charter to enable those people to go on. That reasoning, sir, has no influence with me. There has been one prodigious mistake in all this business. It is taken for granted that the merchants cannot pay their notes at bank, unless they obtain new discounts. This would be to say that they were carrying on trade without any other than bank capital. The loans in Baltimore on made paper are a mere drop in the bucket compared with the extensive trade of that city. A great proportion of the notes which the bank reports as payable are on *bona fide* sales. The borrower does not depend on any loans from banks to meet them, but draws on his own means to pay such notes. But there are in all banks what is called negotiable paper. We borrow from the bank a stipulated sum, and understand that, unless the bank is hard pressed, it will continue the renewal of notes to take up that stipulated sum. A note is signed by A, and endorsed by B, for which no property is paid; it is a mere note of accommodation. That note, when it comes due, is not expected to be paid, unless by a renewal with the same endorser, or, if the endorser becomes bad, a good one. Thus, a director of the bank will have discounts to the amount of \$27,000 renewable at bank. He cannot get more unless on real paper. Our banks do not dare to discount beyond their means, because they are obliged to pay cash for every legal demand. The gentleman from Kentucky has told us that two or three importing States may be benefited by the dissolution of the bank. I will not answer the argument; it is such a one as can go only to disunite, to create envy and jealousy. I would not resort to that kind of argument, and I will not permit myself to answer it.

We are called upon, in a manner extremely impressive indeed, by the gentleman from Massachusetts, to hearken to the information received from the committee of mechanics and merchants now here from Philadelphia. I am well informed, sir, that both those committees were composed of very respectable men, some of them Republicans; and it is said that they complained of a very great scarcity of money, and that trade was not brisk. I will ask them, sir, if they ever knew trade brisk in January or February? It is

employed in building houses for one of the directors of that bank. It may have been the case that that director accommodated him by discounting his paper at a longer time than sixty days. This kind of employment between man and man has a wonderful influence on the mind of man; and he who receives a benefit is willing to return it in some way or other. Mr. Grice appears to be a very worthy mechanic; but I am sorry that he should be obliged to say that those who contracted with him were afraid that they could not comply with the contract on account of the difficulty occasioned by the non-renewal of the charter; and yet he told us that the Bank of the United States still discounted its usual quantity of paper. I am sorry to see that the merchants of Philadelphia, great and respectable merchants as they are, make contracts for ships and tell the shipbuilder that they are obliged to depend on discounts for payment for the ships. I did not expect this was the case there; and will venture to say it is not the case in many other places.

One of those gentlemen tells us he had to pay one and a half per cent. per month for money. Sir, he got the money very cheap. When one gets into the hands of the shavers, or what the gentleman calls only discounters, if he gets out for $1\frac{1}{2}$ per cent. per month, he is not coarsely shaved. It is not an uncommon price. Money is worth what it will sell for, and in Philadelphia, shaving and discounting is considered as honest and fair as any other commercial transaction; that is, to pay and receive more than legal interest. It is not there considered as dishonorable or improper, whatever it may be in Baltimore.

It is the belief of this committee of merchants that in consequence of the non-renewal of the charter, flour fell to \$7 $\frac{3}{4}$ in Philadelphia. Now this, sir, is one of those good strokes, those excellent things, that the friends of the bank use to deceive and influence the agricultural interest with. It is, therefore, brought home to the farmers in Congress. I state this, to show how cautious gentlemen ought to be in suffering their minds to be impressed with these statements. The fact in this case is not as stated. The moment at which flour fell was on the receipt of an account from Liverpool of its having fallen to 56s. per barrel; and that there was no demand for consumption. What was the consequence? Fifty-six shillings a barrel will not allow more than \$7 $\frac{1}{2}$ to be given here; so the price of flour fell. These gentlemen also informed our minds further; that a demand from a British house for

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but there was a momentary apprehension that Massena had got into Lisbon, and commercial men were for a moment afraid to let their property go to that market. This lasted but two or three days; it lasted just as long as the terror of the non-renewal of the charter of the Bank of the United States will last. The gentlemen who were sent on here happened to come at a favorable moment to scare us with the depression of flour. But before the question is taken we learn its rapid rise again to the former prices.

Our minds have been alarmed by a representation of the immense influence which the Secretary of the Treasury will have over the banks to whom deposits are given. I should have no objection whatever as to myself, that the collector of every port should be *ex officio* a director of the bank in which deposits are made; and as to the argument that such a power would enable a Secretary of the Treasury, if he were a bad man, to injure individuals, it is not worthy consideration. No Secretary would dare to take such a course; the thing would be proclaimed here in such a voice as would make the offender decamp with precipitation from his office.

The report of Mr. Orr, one of the mechanics, I had like to have forgotten. He says, all confidence between man and man is destroyed. My letters, sir, say that all confidence is not destroyed, but in those whose rashness has been the cause of their forfeiting all title to it. In order to strengthen Mr. Orr's argument, we are told that the price of hemp is fallen. That is true; but what does the fact prove? Not that the approaching dissolution of the Bank of the United States has caused it; the reason is, that the arrivals from Russia are more numerous than ever before recollected. Every vessel that comes from Russia brings hemp. Again, our good friends to the westward and in Virginia have commenced the culture of hemp, and carried its production to an extent nearly equal to our consumption. Add to that cause, that the demand is much lessened by the destruction of our shipping. We build few ships now. We ought not to rely on these facts; they result not from the dissolution of the Bank of the United States, but from the course of trade.

I have before taken occasion to remark that certain mechanics were here, respectable men, who would have come forward if I had wished them; they would have told you that they did not rely on the Bank of the United States at all, but on the State Banks, for accommodation. I stated that one of those gentlemen thought the renewal of the charter would have an unfortu-

me on a Constitutional argument before; and I do confess, as my friend from Kentucky says, that I was not very squeamish on the subject. But the able arguments of my friends from Kentucky, Tennessee, and Virginia, have made a very serious impression on me indeed, and have almost brought me to think that if there were no other objection I should vote against the bill on the Constitutional question alone. But my mind has received a wonderful impression indeed from the arguments of the gentleman last up (Mr. POPE.) He carried his doctrine of construction so far that it appeared to me that he regarded no other part of the Constitution as binding but the preamble. In support of his doctrine he brought forward the example of the State of Connecticut, which State has no written constitution. It appeared to me, sir, that the gentleman's arguments, if valid, reduced us precisely to the situation of Great Britain, to look for our Constitution in laws, precedents, and parliamentary construction, to have no written guide. My mind became alarmed; and hereafter I shall be very much afraid to give my consent to those kind of constructions about which I have not heretofore been very squeamish.

I have taken up the time of the Senate to an extent at least equal to anything I had intended, and beyond that which many gentlemen no doubt think I ought to have occupied. I have not wished to prolong my discussion to an unreasonable length, and shall, therefore, leave untouched some points I had intended to have noticed. I am unwilling to trespass on the patience of the Senate; because I am well aware that unless this bill passes speedily, it cannot pass at all. Aware of that, I was willing for one, and so were all the gentlemen with whom I act, to take a silent vote on the principle, so as to have given full time to gentlemen who brought forward the bill, to have gone through with its provisions. But another course, that of discussion, has been thought proper to be pursued, and I have deemed it proper to express my sentiments.

Mr. S. concluded with hoping that he had not said anything to wound the feelings of gentlemen in opposition to him, for whom he had great respect. If anything he had said had hurt the feelings of any one, he hoped to be believed when he assured them that such was not his intention.

Mr. POPE.—Mr. President, instead of interrupting the gentleman from Maryland, I preferred to correct him after he had finished his speech. I have examined the Journal, and cannot find that any question about extending a

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terest and influence concentrated in this moneyed institution, and thereby preserve to each State, if the bill passed, her due weight in the Federal Union, I proposed an amendment to this effect: that the capital should be limited to twenty millions—that is, ten millions in addition to the present stock—four of which, as provided in the bill, to be subscribed by the United States, and six millions to be divided among the States, and paid out of the national Treasury. If my plan had been adopted, and a branch extended to Kentucky, the dividends made on the capital employed there would have gone into the treasury of the State. It has been a favorite policy with me to produce a unity or consolidation of interest in this nation. With that view, I have advocated the encouragement of manufactures, and the appropriation of a portion of our funds for the improvement of the interior by roads and canals. Upon the same principle, if the bank bill had been permitted to assume the shape I proposed to give it, I should not have been hostile to its passage. A consolidation of interest is necessary, perhaps indispensable, to give strength and permanency to this confederated Republic, and free it from the dangers and evils consequent upon a consolidation of power. I have several times expressed my opinion on this floor in relation to a consolidation of power. We ought to guard against it. Under this impression, I have been opposed to extending the coercive agency of this Government upon the people of the interior. Upon the same principle, I have approved the repeal of the internal taxes, not so much on account of the sums demanded from the people, but because I think it difficult, if not impossible, to have such a system, requiring so much Federal agency, well managed by one Government over this immense country.

Mr. BRENT said he had not the vanity to believe, after the subject had been so fully discussed, that he should be able to shed any new light on it; but having been instructed, by the Legislature of the State which he had the honor to represent, to vote on Constitutional principles against the bill under consideration, and as he was reduced to the painful necessity of going counter to those instructions, it seemed to him to be indispensably necessary that he should submit to the Senate the grounds on which he acted. It is (said he) a most painful situation in which I stand in relation to the Legislature of Virginia, in being compelled to vote in opposition to their will, more especially as it is a prevalent opinion with many whose opinions are entitled to great respect, that instructions are obligatory on a Senator. This question is one which has never been settled, or

effect, I am under a strong impression that, according to the principles of our Government, there is much reason to believe that the respective State Legislatures should have such a right; but on a Constitutional question (whatever may be the right of the State Legislatures in other instances) the right of instruction may be denied, in my judgment—that is, so far as to be imperative on the Senator. To give a vote in such a manner as in his estimation to inflict a vital wound on the Constitution, is more than the Legislature of Virginia, or any other State Legislature in the Union, can compel me or any other Senator of the United States to do. The resolution of Virginia is bottomed, not on the ground of inexpediency, but on the principle that the Constitution prohibited Congress from granting the bank charter in the first instance; that it now prohibited it, and therefore, because it was unconstitutional, the Legislature have instructed their Senators in Congress to oppose it. Now, sir, although I shall not immediately and directly violate the Constitution by voting against the bank, yet, if I vote against it when I believe it Constitutional and necessary, it must be known that I vote in conformity to the instructions of the Virginia Legislature; and so far as my vote goes, it will warrant and sanction that interpretation of the Constitution which the Legislature of Virginia has given—which interpretation, in conscience, I believe to be erroneous. Therefore, though in ordinary cases the instructions of a Legislature may be imperative, (I will not determine that question,) I conclude that they cannot be so when they require of a Senator to commit either a positive or implied breach of the Constitution, or to vote in such a manner as to warrant such interpretation of the Constitution as will deprive it of an essential attribute. Virginia has the physical force, but has she a moral right to violate the Constitution of the United States? If she has it not, can she give it to her Legislature? If her Legislature possess it not, can they give it to a Senator? Can the Legislature give me a moral right to violate the Constitution of the United States, which I have sworn to support? I believe not, sir; and that, in the situation in which I stand, their instructions ought to have no operation on the vote I am to give on the subject under consideration.

To illustrate this question more fully, let me inquire if a State Legislature should instruct its Senators to vote for a law to take away the trial by jury in a criminal prosecution, would a Senator, thus instructed, who has sworn to support the Constitution of the United States, consider himself conscientiously authorized to vote for

United States, and, if he does his duty, vote for all measures that may be necessary to restrain the unconstitutional acts and insurrection committed by his State? Either instructions on Constitutional questions to a Senator are imperative, or they are not. We admit that a Senator retains his seat in the Senate, even while his State is engaged in actual insurrection and rebellion, and consequently in the continued violation of the Constitution of the United States. While a Senator engages in the deliberations of this, the highest Council of the nation, is he to obey the instructions of a State Legislature who are in the daily violation of the Constitution of the United States, and are endeavoring wholly to destroy it by open and declared insurrection; and which Legislature will, consequently, instruct their Senators to pursue such a course as will best accomplish the object it has in view? In this dilemma, if instructions are imperative, which, if obeyed, violate the Constitution, a Senator will retain his seat in the Senate of the United States for the express purpose of using every means in his power to destroy that Constitution which he has sworn to support. Can it be imagined that it was intended, in any state of things, that a Senator should hold his seat in the Senate of the United States for the sole purpose of doing all he could to overthrow the Constitution? Since so absurd, monstrous, and dangerous a principle would result from admitting the mandatory influence of instructions, when they touch Constitutional questions, I deem it my duty not to give my acquiescence to, or by my example sanction, a doctrine so hostile to the general spirit, and so unfavorable to the preservation, of the Constitution of the United States.

Much therefore as I respect the sentiments of the Legislature of Virginia, and much as it distresses me to go in opposition to them, I believe I shall do so on the present occasion. With respect to the alarm expressed by some gentlemen, from the large States coming forward and instructing Congress, I am satisfied that no such insidious motives are justly attributable to the Legislature of the State which I have the honor to represent; I am satisfied that its motives were honorable, pure, and patriotic, and this measure is a testimony of the consistency of character of the State. When the charter of the Bank of the United States was first granted, the general sentiment of Virginia was, that this law was contrary to the Constitution of the United States. Under a different state of things, and under the domination of a different political party than at the present time rules the affairs of this country, she preserves a consistency of character. Believing the

titled generally, I do not on the present occasion consider them obligatory as to the vote I am about to give.

In considering this question, I will take it in a three-fold view:

1st. Whether, on the first promulgation of the Constitution of the United States a right did appertain to Congress to establish a bank.

2dly. As respects the Constitutional question, whether, on an adjudged case and one long practised on, it has the same weight as if original?

3d. Whether, admitting that at first the bank was improper, because not necessary, it be not now proper, if it can be proved almost indispensably necessary?

The first question, whether the General Government, when it first came into operation, did not possess the power of creating a National Bank, is the primary object of investigation. In objection to this it has been said, that to carry into effect an enumerated power is one thing, and the right to incorporate a bank is a distinct power. Those who take this ground say that the creation of a National Bank is an original, independent, and substantive power. It is not sufficient, say they, to show that it is a convenient instrument to carry into effect an enumerated power, because it is an independent authority of itself, and the genius of our Government prohibits the derivation of any powers by implication with scrupulous limitation. It is true, sir, that our Government, being an emanation from the existing State governments, the rational construction is, that all power not given away is retained to them or to the people. If that construction does not result, then a positive amendment, which has been made to the Constitution, has infused this principle into it. I therefore admit in its fullest latitude the construction that all powers not given away are still retained; yet I still contend that even in a Government like ours, there are some resulting powers. Or by what right do we create a military school? We have a right to raise armies; but we can have an army without a military school. Yet it is Constitutional to create such an institution, because every given power implies rights inferior appertaining to the powers granted. We lay an embargo—is there any clause in the Constitution authorizing us to lay embargoes? No, sir; we have a right to regulate trade, and we have a right to lay embargoes to protect it. We have a right to provide for arming and disciplining the militia. Under this authority we build armories. Is there any provision in the Constitution directing it? We have created forges and even purchased ore banks. These are inferior powers, necessarily resulting from the greater powers grant-

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purpose? Because the sovereign authority has power to establish an army, and the power to create a military school is inseparably connected with and necessarily appertains to it. We establish a navy—we also establish a marine corps. There is no clause in the Constitution giving that power, but we take it as inseparable from the power to create a navy, because the exercise of the greater implies every subordinate power necessarily connected with it. The great stumbling block, however, is, that this is one of those independent, original, and substantive powers, which cannot be given by implication. Blackstone says, "municipal law, thus understood, is properly defined to be a rule of civil conduct, prescribed by the supreme power in a State, commanding what is right and prohibiting what is wrong." Agreeably to this definition, every law passed by a deliberative body is an act of sovereignty as to the subject to which it relates. The establishment of a marine corps is as much an act of sovereignty as an act incorporating the Bank of the United States. The only question is, whether it be necessarily incident to the enumerated powers given to the General Government. Those who criticise most accurately on the Constitution and most unwillingly concede resulting powers, will admit them to a certain extent even in our Government. The only question is the immediate and necessary connexion of the means used with the object intended to be attained.

In inquiring then, sir, whether or not, at the first promulgation of the Constitution, when it came into existence, it was intended that Congress should possess the power of incorporating the Bank of the United States, let us inquire whether there was any possibility of carrying into effect with any tolerable convenience and advantage the several provisions of the Constitution, unless this power exists. It is said that you do not possess the power, because it is attempted to be derived by different gentlemen from so many different parts of the Constitution. Now, Mr. President, I have never before understood that a capacity to derive a title from several different sources gives you less title than if derived from one source alone. I derive the power from the whole context of the Constitution, although gentlemen seem to think that the title is invalidated in proportion to the number of sections in the Constitution from whence we derive it. In order to avoid confusion of argument in examining this question, I will derive it from only one source at present, though I believe others equally give it by a necessary construction. At the time the Constitution came into existence, I believe there

the state of things at the time when the Constitution came into existence. At that time there was not one bank south of Philadelphia, and the banks which existed were very limited in their capital, and their paper had limited circulation. Congress, in such a state of things, then, has the power of levying and collecting taxes conferred on it, and yet Congress has not the power to create banks to aid in the collection of its taxes, notwithstanding a clause to make all laws necessary and proper for that purpose is contained in the Constitution. No gentleman will say that the agency of banks is not necessary in some way or other in collecting the revenue. I admit without them you could have carried on our fiscal arrangements in an awkward and cumbrous form, but was that the intention of the Constitution? When the power to collect taxes was given, it was intended to give all the means necessary to carry this power into execution. It was not to execute this power in a cumbrous form, but with the greatest facility with which the power is susceptible of being wielded. Now, is it possible that the Constitution contemplated that the revenue should be collected and transmitted here, subject to all the risks and accidents and inconveniences that attend the transportation of specie? It is impossible. But all this doubt has arisen from its being a separate and independent power, although it is no more of that character than any other law passed to execute the enumerated powers of Congress.

In a word, Mr. President, it is admitted by all who have spoken on this question, whether for or against the bill under consideration, that the agency of a bank or of banks affords the greatest facility and security of any plan that can be devised for the collection of a revenue, and for its transmission to your Treasury.

It is admitted that no bank or banks of a capital or of sufficient circulating paper throughout the United States adequate to this object, did exist when the Constitution was first formed, promulgated, or adopted. It is admitted that to levy and collect taxes is one of the enumerated powers of Congress. It is admitted that Congress has all power necessary and convenient to carry its enumerated powers into execution.

It is admitted there is no express clause in the Constitution prohibiting the establishment of a National Bank.

If these principles and facts are admitted, does it not demonstrate, beyond the possibility of doubt, this unquestionable result, to wit: that as Congress is to levy and collect revenue; that as the agency of banks affords the most certain, speedy, and convenient means by which a revenue can

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the people who adopted the Constitution, must have had in view our then existing institutions, and the then general state of society, it was the intention of the convention who formed the Constitution, and the people who adopted it, to give to Congress the power of establishing a National Bank. If at the time of adopting the Constitution it was necessary and proper that Congress should possess it, for the exercise of any of its enumerated powers; if the foregoing result is undeniable, and I think it is, I would interrogate, if Congress, on the adoption of the Constitution, possessed a power to establish a National Bank, what has since deprived that body of the power? I, Mr. President, can discover nothing which has. One argument, much confided in by gentlemen who have opposed the present bill, is, not that banks are not necessary to the collection of the revenue, but that State banks will answer. In return, I insist that no State banks did exist when the Constitution was first formed, therefore the power to create a National Bank is necessarily given in the power to levy and collect taxes. To this it is replied that to create a National Bank is to legislate by implication; it is a separate, substantive, and independent power; to levy a tax is one thing, to make a bank another. I answer, to levy a tax is one thing, to create an officer for its collection another. By this kind of chop-logic we may prove anything unconstitutional. I ask, when you levy a tax, if you do not provide officers for collecting it. I levy a tax and create a bank through whose instrumentality I mean to collect it; from the same authority by which I appoint a collector, I have a right to create a bank through whose instrumentality I mean to receive and transmit it. There is no clause in the Constitution saying you may appoint officers for the collection of the revenue specifically; but the right to appoint officers to collect revenue is derived from the power of levying a tax, from which also may be derived the power of establishing a bank, if it be the best mode of collecting the revenue. It is said you may collect this tax by means of the State banks. Very well, sir, I say you may collect the revenue by means of State officers, and upon the principle that you cannot establish a bank to collect the revenue, because the State banks can collect it, I say that the State officers can collect our taxes, and if your argument is just, you cannot appoint any other officers. The Constitution authorizes the President to appoint persons to fill all offices established by law, but says not a word about appointing officers to collect the tax you levy specifically. Upon the construction gentlemen are

ing, sir, cannot be admissible, and is in hostility with a most manifest principle of the Constitution, as it is evidently a prominent feature of that instrument that the General Government should have within itself all those powers necessary and convenient for the execution of its enumerated trusts, entirely free and independent of the interference and agency of the States, their officers, or ministers.

It has been triumphantly demanded by some, whether we could create a trading company. I have not a doubt on the subject. If it can be demonstrated to me that commerce would be benefited by the incorporation of a mercantile company, that it is indispensably necessary to do it to regulate trade to advantage; under such circumstances I have no doubt we can create a company, for the creation of a company is no more the exercise of a separate independent authority than any law which we make when legislating under our enumerated powers. If it be inquired whether or no we could incorporate a company to cut canals through the States, I answer that there is in the Constitution a clause authorizing Congress to regulate trade between the States, and under this clause we could do it with the consent of the States. We could not do it without, and I derive this construction from the Constitution itself. It is a fair mode of construction laid down by professional men, that where there is intricacy or difficulty in the construction of any legal instrument, you must take the context together; one part of the instrument must be used to elucidate another; the different parts must be compared, and the true construction thereby obtained. In the 8th section of the first article, a power is given to Congress "to exercise exclusive legislation, &c. over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." I discover here that the Constitution, in order to preserve the sovereignty of the State governments, has been exceedingly vigilant in guarding their territorial rights. Therefore, where a power is given to the General Government interfering with the territorial rights of the States, there is a clause in the Constitution saving territorial rights, and requiring the consent of the States to its exercise. If, therefore, Government, in the exercise of its enumerated powers, is restrained from acting, where their acts affect State territory, unless with the consent of the States, I infer that we have not a right to incorporate canal companies without the consent of the States through which the canal is to pass. With this limitation I have

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collect the customs, has he not a salary and emoluments? Is not every office in law called a franchise or a particular privilege? If the officer who has these emoluments, privileges, or franchises, (call them what you will,) receives these in consideration for his services, have you not the power to hold out inducements to associated bodies of men to form an institution from which the public may derive benefit, not with a view exclusively to their monopoly and benefit, but on account of the advantages to be derived from it by the public?

If it is urged that instead of this incorporated company, you might appoint officers in the different parts of the States in which the greatest duties are collected, and issue notes, or bills of credit, which are made current, without creating a bank authorized to make discounts, I admit we might; but if we believe it not so convenient and safe a way of collecting our revenue as through the agency of a bank, we have the right to associate men in a banking company for this purpose, and give them particular privileges, upon the same principles that we give privileges or franchises to every officer we appoint; and although we thus confer in both instances privileges, it is done for the public good, because the object to be effected can be accomplished by no other means so effectually. If you want an association of men in a particular manner, to make them subservient to some political use, you have authority to give to those associating men whatever privilege may be sufficient to induce them to associate for this purpose. You do not give them this privilege for their own individual advantage, but as the lure, the bonus for association, by which association the public object is effected. I would ask whether Congress could not to-morrow pass a law authorizing the President to open a negotiation with Hope and Co., saying, we have full confidence in you, and you shall be the United States' bankers? This may be said to be a monopoly; but, if Congress were convinced that this was the safest means of collecting the revenue, I ask where is the clause of the Constitution which, in substance or words, prohibits Congress from adopting such a measure? If there be no clause to prohibit this, there is no prohibition to the passage of a law for incorporating individuals in an association from which the greatest possible facility in the collection of the revenue is expected. In a word, sir, it appears to me that the only rule in an instance of this kind is, to take care that the means used have a necessary reference to the object of the power. When legislating on the enumerated powers of

being regulated by the relation of the means to the object to be effected. If this reasoning be just, then, this question is not soluble by the mere determination of the question whether or not this is the best system by which our revenue can be collected; we must, to insure its rejection on Constitutional grounds, prove that the power of establishing a bank is so remote from the object of collecting the revenue, as to have no connexion with it. Admit that a better system of collecting the revenue can be devised, than by the establishment of a bank; it does not follow that the bank is unconstitutional. The only question is, whether it is so remote, as that by no satisfactory process of reasoning you can prove its analogy to the collection of the revenue. If it be shown that a better system could be adopted, it only proves that this is inexpedient; not that it is unconstitutional; and, sir, it has been a matter of astonishment to me, that, notwithstanding it was so universally believed some time since that the agency of the bank was excessively conducive to the prompt and regular collection of the revenue, it is now discovered that its agency is unnecessary. The gentlemen who are now of this opinion thought otherwise formerly, and the Secretary of the Treasury, who is best enabled to decide the question, is of a different opinion from them.

In answer to those, sir, who say that State banks afford the facility necessary to the collection of the revenue, I would ask, is the General Government to be dependent on the State banks for the collection of the revenue? Or do gentlemen believe they would be as secure and responsible as the Bank of the United States? As to the remark that in those States where there are no banks the revenue is collected with as much facility as where there are banks, I would reply that where there are no banks there is nevertheless bank currency in circulation. Where the States have no banks of their own, the notes of the Bank of the United States are in circulation and the customs paid in those notes. A National Bank, I am under a strong conviction, is, if not indispensable, highly conducive to a convenient collection of the revenue; and if this bank be put down to-day, before a long interval of time we shall have another bank. In my estimation, there ought to be a bank whose paper circulates freely throughout the States; other paper will answer the same purpose. I recollect to have been travelling where I had in my pocket-book five hundred dollars in good bank notes; and yet I was compelled to trespass on another gentleman in company with me to hear my expenses. If

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enormous evil and the danger to our liberties that is to be anticipated from giving the power to erect corporations, which he says is an original power, and has given being to institutions which have swelled to an enormous magnitude. The example of the East India Company and the South Sea Company were spoken of in an alarming, impressive, and ingenious manner. But, I ask, sir, if the State governments do not possess this gigantic power? I see nothing to restrain them more than the General Government. I see that the only supervisors as to the State governments are the people themselves, who are also the supervisors of Congress, who have also the invidious jealous eyes of the State governments constantly upon them, as is illustrated in the conduct of some of the States on this very question, and who combined would guard this power from abuse by the General Government much more than the people alone will guard against abuses by the States. It is a visionary mode of reasoning to argue against the possession of power from the abuse of it. The gentleman may as well tell us that we may raise armies to so monstrous an extent as to crush our liberties; and, therefore, we ought not on any emergency to raise an army. He may as well say the creation of a military school, which is as much and no more a resulting power than the one in question, is giving to Congress a great substantive independent power to create a vast engine, under the name of a military school, which may swell to such an immense importance to make it an instrument to swallow all the liberties of the country. So as respects sites for forts and armories, and ore banks, powers exercised by implication, the gentleman, from the unlimited indulgence he gives to a gloomy and foreboding imagination, may say, you may purchase the territorial rights of the States until you destroy their sovereignty. There is no end to the extent of such reasoning. We must rely in some degree on ourselves, on the vigilance of the State governments, and on the discretion of the people. When the whole body politic is so corrupt that there are no eyes on our rulers to see when they transcend the powers of the Constitution, all is lost, and no paper reservations can save us.

From this reasoning, sir, I again reiterate that I conclude that when the Constitution was formed and promulgated, it was the intention of the framers of the Constitution and of those who adopted it, in the powers they gave to the Congress of the United States, to include that power, and establish a bank if such an institution was considered convenient, necessary, and proper to carry

2d. That the right to grant charters of incorporation was a distinct and sovereign power, equal in itself to any of the enumerated powers granted to Congress.

As to the first position, that the right of creating corporations or banks has no analogy to the enumerated powers of Congress, permit me to observe this is begging the question, or rather entirely evading it. If it is admitted by every one (and this has been admitted) that banks afford the greatest facility of collecting your revenue, and you have a right to avail yourself of the best means to carry into execution your enumerated powers, the right to create banks has an immediate connexion with and grows out of the power to levy and collect taxes, which brings this merely to a question of expediency.

His second position was, that the right to create corporations or banks was a distinct and sovereign power, equal in itself to any of the enumerated powers of Congress; that it wants that connexion, affiliation, and subserviency, to some enumerated power, which is necessary to give a power by implication. I know not that a law granting a charter of incorporation is more an act of sovereignty than a law passed on any other subject. That it is a power, original, independent, and of itself equal to any one of the enumerated powers, cannot be admitted, because it has not been contended by any that Congress possess the power of creating corporations at all times and in all instances. It is only contended to be proper and Constitutional when it is used in subserviency to the enumerated powers of Congress, as the means best calculated to carry any enumerated power into execution. The right of creating incorporations for this purpose only, and under this limitation, can never make it a power equal in character and magnitude to any one of our enumerated powers, because if it is used as a mere subservient instrument to them in that point of view—if it can be demonstrated that they are a convenient means to effect a legitimate object, my colleague must admit their constitutionality, because he has emphatically dwelt on that clause of the Constitution which gives to Congress the power to make all laws necessary and proper; and to those who apprehend that this power may be abused and Congress may attempt to exercise it in instances not within the pale of their legitimate authority, I answer they may also abuse any other power they possess. The only preservation is the virtue of our Legislature and the vigilance of our people.

The next point which remains to be investigated is, whether the constitutionality of the bill under consideration receives any support from its

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or create one moment of doubt. Error, however repeated and submitted to, is error still, and every occasion should be sought to get rid of it; but on an occasion in the origin of which the Constitutional question was doubtful, when men of the purest integrity and most illumined intelligence might pause and differ and doubt, I should imagine that such case once acted on should never again be touched, unless considerations of irresistible importance lead to such a measure; and I imagine that every man of candor and intelligence who weighs with due deliberation the question under consideration, will at least admit, if the measure is not certainly Constitutional, it is at least of that description of character I have last mentioned. In such an instance as this, will it be said that after this measure has been sanctioned by Congress on full deliberation and debate; after the bill establishing this bank had received the approbation of the President, who reserved his signature to it till the last moment permitted by the Constitution, and after he had viewed the question with all its bearings in every attitude it could be presented, after full consultation with his Cabinet Ministers and others of high intellectual character; after the law thus sanctioned by the Legislature and the President has been acquiesced in and practised on for the space of twenty years, when it has been considered inviolable, and corroborating laws passed during the administration and legislation of different dominant political parties; when those laws have been sanctioned by the solemn adjudication of all our judges, both of the General and State Governments; to suppose that all these considerations are to have no influence as to putting to rest a Constitutional question which was doubtful in its origin, is to be sceptical and scrupulous beyond all reasonable bounds. If Congress had no right to incorporate a bank, was it not an act of usurpation in the President and Congress to pass laws punishing individuals for the forgery of its paper? Nay, more, Mr. President, when we inflict death for the support of institutions Congress had no right to create, and for the violation of laws the Constitution prohibits that body from enacting—(and under the denomination of each of the political sects into which this country is divided, agreeable to the principles now contended for by gentlemen, such laws have been passed)—are not the Executive which sanctions, the Congress which passed, and the whole body of our Judiciary, both of the General and State Governments, which enforces such unconstitutional measures, and under their surreptitious authority inflicts death upon our citizens, worse than usurpers? Are they not murderers?

verdict, on the famous or rather infamous Logwood, for forgery of the paper of the Bank of the United States. This verdict was confirmed by the judge of the court, and the criminal punished agreeably to the judgment. Is a measure of such weighty and awful import, so solemnly and deliberately acted on and decided, and multifarious other decisions of the same description, to have no influence on the decision we are about to give respecting the constitutionality of establishing a National Bank? If they are not, then gentlemen view the subject through a very different medium than that through which it is presented to my vision. Then, in my judgment, Mr. President, our situation is alarming indeed.

This vibrating, Constitutional doctrine, to-day one thing, to-morrow another, as the domination of one party or the other, or the passions of the moment shall prevail, will reduce our Constitution to nothing, or render it a mere instrument for depraved men, if such should get into power, to accomplish their wicked purposes, and to destroy the liberties and oppress the virtuous people of this country. It is a wise maxim of our municipal law that in novelty there is danger, but antiquity of law sanctifies error. If this principle is just, as it respects municipal law—(and of this, in my judgment, there can be no doubt)—it is infinitely more so when applied to fundamental and Constitutional principles, which, when once fixed, on all questions of a doubtful nature, should never again be agitated. The influence which the decision of the Judiciary may have on settling the constitutionality of the law incorporating the Bank of the United States, is not intended to be urged by me as an argument, which in my judgment ought to be relied on, because I conceive it the duty of the Judiciary merely to expound what is the law of Congress, and to determine between a law and the Constitution is assuming to the Judiciary a power not appertaining to it—a power inconsistent with the genius of our Constitution, and such a one as, if exercised by any judiciary, under a popular Government, will ultimately destroy the Government itself.

The inference, therefore, which is derived from the reasoning above insisted on, from the decisions of the Judiciary, is intended for those who insist that your Federal Judiciary have a right to decide on the constitutionality of any law passed by Congress which comes under its cognizance. The aid I myself derive from the source of precedent to support the constitutionality of this measure is solely from the reiterated acts of different Congresses, and the approbation of dif-

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effect. The gentleman from Tennessee imagines that during the period of the republican Administration and majority in Congress, which acted upon this bank law, it was considered in the nature of a contract, and as such, Government determined to carry it into effect with good faith, and with that view passed the several corroborating laws which have been from time to time enacted. But this reasoning, sir, of the gentleman from Tennessee has been so fully refuted by my honorable colleague, in the very able speech he delivered on this question some days past, as to obviate the necessity of further commenting on it. I will only repeat one remark that was made by my colleague. If the bank law was unconstitutional at first, it could not give any legal corporate existence to any body of men to form a legal contract in a corporate character which had no such existence. Therefore, there existed no legal contract; the faith of Government was not pledged; it was like a contract with a married woman, or an idiot; it was *ipso facto* void.

To recapitulate: I derive the power to create a National Bank, when this Constitution came into existence, from the situation of society, and our legal institutions at that time, and the difficulty, as things existed, that the revenue could be collected with advantage in any other way than by the agency of a bank. If this reasoning be deemed erroneous, I insist that the Constitutional power of Congress to create a bank was in the first instance doubtful, and the principle having been recognised, and having received every sanction the Government could give, and practised on for more than twenty years, is not now to be called in question. Admitting that on both these points my views are erroneous; say that the establishment of the bank, at its commencement, was improper, still, if it be demonstrated that the existence or rechartering of the bank is indispensable, or highly expedient at present, to the due exercise of enumerated rights of Congress, that which was improper or even perhaps unconstitutional at first, because it was not necessary, becomes Constitutional and proper, because now expedient or essential. Congress is clothed by the Constitution with a variety of delegated rights. Now, admitting that the establishment of a bank in the first instance was not necessary for the due exercise of the legislative rights bestowed in any one of these enumerated powers, if our predecessors in office, by the creation of a bank, which at best was an improper institution, because not necessary, have placed our fiscal concerns in such a situation that it cannot be put down with-

In construing the Constitution of the United States, when legislating on the enumerated powers of Congress, I lay down this rule of construction: that the only limitation to the power of Congress is either some positive or implied prohibition in the Constitution itself, or the exercise of an honest and sober discretion. If, therefore, there is any reason to believe, at the present period and existing state of things, that by putting down the bank your revenue will be greatly impaired, your commerce will be injured, the public credit lessened, all of which Congress is to protect; does not such a state of things make it proper that that bank, which ought not to have been created, because not necessary, now ought to be continued because indispensable? It may here be said, that I am varying the Constitution if I say that a thing is proper to-day which was not proper five and twenty years ago; that this vibration will always keep the Constitution in an uncertain state. I say, no. My doctrine is subject to no such accusation; the principles of the Constitution are uniform and unalterable. It is an uniform and unalterable principle, that Congress have the power to lay and collect taxes; they have the same positive, unchangeable right to exercise all the enumerated powers, the only rule of construction relating to them being that the means you use have a necessary relation to the power on which you legislate. If the means be not enumerated, you exercise discretion as to the means, having a regard to the existing state of things when you legislate concerning them. The same means may be necessary and proper now, which would not have been twenty years ago. You change the means to attain the end, but the end itself, the enumerated power in the Constitution, remains unchanged. As long as the Constitution exists, you must select the means most proper for executing the enumerated rights at the precise moment at which you legislate respecting them. If this be the true construction of the Constitution respecting the recharter of the bank, the question merely resolves itself into an inquiry how far such a measure is at present expedient. To determine at this moment whether or not it be Constitutional, or in other words expedient, to incorporate the Bank of the United States, I am to say whether, under existing circumstances, in the present state of society, situation of trade and revenue, the preservation and continuance of this institution is essentially necessary. If it be essentially necessary, we have a right to recharter the bank. I have been precise in stating this view of the subject, because it has not before been taken by any other gentleman.

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bounds. When general distress is in view; when all around us is proof of the fact; when men in the best credit, men who have heretofore had the greatest command of money, now feel the want of it; when there is a general cry of distress from your large towns; when our table is loaded with petitions from all orders of people in our country, depicting in the most vivid colors their present sufferings and gloomy anticipations; when the surrounding banks are curtailing one-half of their accommodations; when our whole commerce is paralyzed by the various aggressions it has experienced, and by the shock which the agitation of this question has already given it, for gentlemen to shut their eyes to the effects of the dissolution of this institution is to me astonishing. In another point of view how can it be questioned? The honorable gentleman from Maryland, whose knowledge we have all benefited by and acknowledged on various occasions, has said, what is most unquestionably true, that money is like any other article of trade, valuable in proportion to its abundance or rarity. Then if you strike out of circulation the increased capital circulated by the Bank of the United States, is not a relative scarcity to be expected?

But it is not merely to the extent of the increased capital circulated by the Bank of the United States that money will be driven out of circulation. Those gentlemen who tell you that the State banks in this period of calamity and distress can afford sufficient accommodation, are in my estimation infinitely mistaken. The State banks will in the first instance frequently tend to increase the evil. The same men who have accommodation in the Bank of the United States, very frequently have it also in the State banks. The Bank of the United States, finding it necessary to settle the accounts, is anxiously employed in drawing into its vaults all the money it can to settle its affairs. The State banks, knowing there will be a run upon them, are also drawing in the money due them by the very individuals whom it is imagined they can accommodate by extended loans. Those State banks which were to relieve the merchants, &c. will join in the pressure; in order to secure themselves, they must produce the same curtailment to their customers which is used by the Bank of the United States. So that not only will the amount of the capital circulated by the Bank of the United States be driven out of circulation, but much also, for a time, of that paper which the State banks were in the habit of issuing to individuals. It is impossible to say to what extent the circulating medium will be diminished; that it will be to a great extent for a short time there can be no sort of doubt. And the depression of the price of

Cadiz, Lisbon, and Gibraltar. It is not long since I saw an account of flour having sold at twenty dollars at Gibraltar. Now, sir, if a merchant here knew he could get this price there, of from eighteen to twenty dollars, as is unquestionably the fact, would a temporary depression of the prices at Liverpool, as has been imagined by the gentleman from Maryland, have any effect here? None at all. If our merchants could get eighteen or twenty dollars at Lisbon, the depression of price at Liverpool would not have the least operation here; it is an unquestioned fact that the price in the ports I have mentioned is constantly kept up—and yet the price did fall at the moment the bank question was thought to be decided; I think, it fell two dollars immediately; and it was no doubt from the difficulty of obtaining money, which it was supposed would result from the dissolution of the Bank of the United States, that this article fell. When you diminish the quantity of money which is to represent the articles of trade brought to market, I do not want the gentleman's mercantile knowledge to inform me—it is a plain proposition—that such a measure goes to depress the price of the article brought to sale. That the destruction of the Bank of the United States, as it will lessen the circulating currency for a time, must go to depress the price of produce is unquestionable, and will also diminish for a time the circulation of the notes of other banks, because they must reduce their discounts. This effect may be but temporary, but will exist to a certain extent.

The gentleman from Maryland has observed that no apprehensions are entertained by the people of Baltimore on account of the dissolution of the United States' Bank. I think I have been informed that one of the most wealthy men in that town has said he had a vessel to load, and knew where he could send her so as to clear six dollars per barrel on flour; for that flour at this period could be purchased here at eight dollars and might be sold abroad for eighteen; but in consequence of the entire impossibility of obtaining money from the banks at present, from the fear entertained respecting the dissolution of the Bank of the United States, it was not in his power to load his vessel. Such, sir, I have been advised, is the situation of one of the wealthiest men of that town. The Bank of Columbia has at one stroke lessened its discounts fifty per cent., in consequence of the apprehension entertained respecting the dissolution of the Bank of the United States. What has the gentleman from Massachusetts told you? That \$400,000 are loaned to the people of this District by the Bank of the United States. What will be the effect in this little

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When the numerous late failures and bankruptcies are spoken of, what is the reply? That they do not proceed from a want of bank accommodations, but from the protesting of bills abroad; that our merchants have much property abroad, but the difficulty of obtaining returns for it has been such as to embarrass our strongest houses. Is this a reason why we should accumulate difficulties on our merchants? Fifteen or twenty millions are said to be tied up in foreign countries, more especially in England, and such is the situation of England that we cannot get remittances from there. This is an admirable reason, sir, indeed, for selecting this particular moment for calling on the merchants to make an immediate payment to the amount of fourteen millions, which they owe this institution, and which, if put down, it is reasonable to believe will require immediate payment.

This is regulating trade with a witness. By the annihilation of the Bank of the United States a considerable portion of our circulating medium is destroyed. At the same period our merchants are called on to pay their debt to the United States' Bank to the amount of fourteen millions, and their revenue bonds amount to about twelve millions. This, too, at a period when the funds of our merchants to a great extent are in England, and cannot be withdrawn.

To me it appears that the situation of the country, as respects commerce, and everything else, makes it important, at this crisis, above all others, that this institution should be preserved.

But gentlemen, and very intelligent gentlemen tell us, this is a mere momentary pressure; that, the money in the Bank of the United States, and the revenue as collected, will be deposited in other banks, who will issue paper or specie in proportion to the additional capital in their banks; that there will be a mere temporary vacuum, which will soon be filled. If I am to be placed in an apartment from which all respirable air is exhausted, and for a very short time to remain there, but till all vitality is extinguished, it will truly be a delightful consolation previously to advise me that this vacuum is temporary, and, after I am destroyed, the equilibrium will be restored and fresh air admitted. Precisely of this nature is the consolation afforded to your ruined merchants and others. What avails it if the cause be momentary, but the effect as to them be permanent? This awful moment will bring permanent destruction to thousands. And for what purpose do we produce this destruction? To get rid of the foreign influence produced by the stock held by foreigners. Yet, sir, this foreign capital is one of the most beneficial consequences attending the

use of their capital. This is one of the great reasons with me in favor of the bank. We are admonished that this foreign capital gives to foreigners a dreadful political influence. Admit the assertion, which however is not true. Who invited it here? The Government itself. We ourselves sold this stock to foreigners. Our Secretary of the Treasury, with the knowledge and consent of the Government, bargained and transferred great part of it. Is this good faith, is it honorable and just? After we have received a bonus for the transfer of the stock to individuals, under the idea that the charter was inviolable and secure, to destroy the institution to get rid of this foreign capital which we ourselves had invited here? If these moneyed banking institutions are these horrid engines of political influence and corruption some have contended for, the only way to obtain any good they afford, and yet avoid their deleterious effects, is to get foreigners to send their money here, and invest it in our funds. We get the benefit of their money, whilst we are so far removed from them that they can have no operation on us. For, sir, it is notorious to those who are informed on the subject, that we feel less inconvenience or political influence from foreigners who hold stock, than from natives who possess it. This inference must be obvious when I state, that foreigners who hold stock have no vote in the choice of directors.

Again, sir, is not the critical situation in which we stand in respect to our foreign relations a particular reason why we should not at this time make experiments which may injure the public revenue? If we enforce our non-intercourse law, and England attempts to resist it and force her imports into our country, by Florida and our southern frontiers on one side and Canada and Nova Scotia on the other, it is at least questionable whether our revenue will not be greatly diminished. In our present unsettled situation, with our merchants staggering under the weight of the non-intercourse, embargo, and foreign spoliation—is this a moment to try experiments that may have the effect of reducing our revenue, by crippling our mercantile enterprise, and forcing our merchants to withdraw their funds from commerce, in order to pay their bonded duties and bank debts? But will the destruction of this bank rid us of the dreaded influence of foreign capital? No; you get in its stead an influence infinitely worse; you encourage speculation, which will produce an evil of an infinitely more pestiferous kind. If this bank be put down, another ere long I have no doubt will be created, for that another bank must and will be created is avowed by many who vote against continuing this, and

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engage in a scene of the most debasing speculation; our citizens afterwards sell this stock to foreigners whose foreign influence we wish to avoid, and after having gone this vicious circle we arrive precisely at the point where we started. The same foreigners who now have so much of this bank stock will reinvest their money in the stock of the new bank to be created. This dissolution of the bank, then, is trying wild visionary experiments, possibly in its consequences convulsing society to its centre, sporting with the feelings and happiness of the country, impairing mercantile credit and enterprise, injuring the tranquillity of many of our most meritorious citizens, who see ruin hovering over them from the measure we seem like to adopt; and after all this is done, we come round to the precise point from which we commenced.

It has either suggested itself to my mind upon reflection on the subject, or it is an idea suggested by some political writer, (and I think the latter is the case,) either Hume or Smith, or both, that a gradual, silent and almost imperceptible increase of money or circulating medium has the happiest effects on society, and operates as the most salutary stimulus to the exertions and industry of a nation, because it operates as a gradual though perhaps nominal premium to industry, by increasing the price of every article that is brought into market; and the influence which the discovery of the mines of South America had on the European world, by bringing into circulation an increased quantity of the precious metals, is instanced, as well as I recollect, by some of the economists, as an illustration of this observation; for the increase of industry, of the arts, and of all social comforts which soon followed this event has been remarked by several political writers. If this invisible increase of the circulating currency of a nation is from the causes abovementioned productive of such happy effects, will not the immediate extinguishment of a great National Bank, and the consequent diminution of the circulating currency of your country, have an immediate opposite and baneful operation upon society? Will it not produce a temporary depression of prices of many of the necessities and luxuries of life, and to a certain extent lessen and benumb the vigor and exertions of our citizens? It is true, this effect may be temporary, because new banks will remove the evil—but is there any reason to produce this evil even for a moment; or, in other words, should we produce this deleterious effect for one moment by the destruction of one bank, that we, or the States, by the erection of new banks, may remove the evil we ourselves have created? This seems to be no

amount of its capital to a newly created bank on different principles, of larger extent of capital, and with a portion of the directors appointed by the Government. This, sir, will effectually prevent the directors from using the bank as a political engine against the Government itself, and obviates every objection on this head. Witness the Bank of Virginia—how effectually is such an operation guarded against there by such a provision.

I have no sympathy for the directors of this bank, who are said to have improperly exercised this political influence—all my sympathies are in opposition to them. It is not for the benefit of, or tenderness for these directors that I advocate the bill on your table. I know none of them, nor care anything about them, further than not to do them injustice. They may have conducted themselves exceedingly improperly—I believe they have done so many years past, on some occasions—but this is not the way to seek redress for their misconduct. Sir, I have heard of a man who, when irritated, in order to obtain satisfaction, would seat himself on a chafing-dish of hot coals. The mode which is proposed to punish the directors for their real or supposed misconduct is equally wise in this instance. I would not injure the public welfare and heap ruin on very many innocent men for injuries long since committed, if at all, by these directors, and which never can be revived. Besides, this evil is gradually correcting itself. When there was only the Bank of the United States, or very few others, the consequence was, that it was a species of favoritism to get into the banks, and a privilege extended only to particular friends.

But at the extent to which banks are carried at present in the Northern and Middle States, to which the operation of the Bank of the United States is principally confined, it is not a species of favoritism to obtain bank accommodation. In the city of Philadelphia, before the late alarm, produced by agitating the question we are now discussing, every man who could produce good paper might get as much accommodation as he pleased; and to this extent banks should always be carried if once commenced. This is a remedy for favoritism, and prevents the bank from being formidable as a political engine. If we go to banking at all, let it be so that all good paper can be accommodated. When the banks compete for paper, it is then not a system of favoritism. They rather seek for customers than select them. Such was the situation of Philadelphia. What is the consequence of a contrary system in Richmond? In consequence of the erection of a bank there with a little capital the dis-

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Bank of the United States is said to be instrumental, is cured by the establishment of other banks; but it is possible that to a certain extent the undue influence of banks generally may be revived by putting down the Bank of the United States and creating a want of banking capital in the community. If there be a greater demand for discounts than can be met by the remaining banks after that of the United States is destroyed, then you revive with the remaining banks that power of political influence and favoritism which you are so anxious to avoid, and increase the calamity you deprecate by the very means you take to avoid it.

In a perfectly well regulated state of society, it seems to me things should be so ordered, if it can be effected, that every individual of the community should obtain loans of money, on reasonable interest, to any extent for which he can give ample security. In such a state of things, an opportunity is afforded to bring into action, and to develop all the resources of the nation, to improve its agriculture, its manufactures, its commerce, and all the social arts, to the greatest possible extent. Such was the state of Holland, such the state of England before the present disturbances in Europe; and mark the result. Each country polished and improved like a garden, their commerce extending over the world, and all the discoveries and arts which enrich and adorn social life carried almost to the utmost limit of perfection. This state of things can be effected in this country only by the agency of banks. As we are every day increasing our population, commerce, and agriculture, &c., and bringing into action an increased quantity of objects on which money can be advantageously employed, a proportionably increased quantity of circulating medium, or of banking capital, is necessary to keep pace with the improvements and progress of society. If this reasoning is just, it is surely improper to destroy our greatest moneyed institution, and consequently banish from circulation a portion of the circulating medium at a period when the state of the nation is capable of employing to useful purposes a larger capital than at a former period. If it is apprehended that, by affording this facility of borrowing money, to the extent I have insisted on, to every individual who can give security, incautious men will ruin themselves. I answer, they will do this in any state of things. To argue against the use of an institution from the possible abuse of it, is not a just mode of reasoning. A sensualist may destroy himself by excesses in the enjoyment of the table, yet more temperate men

ing progress has she made in every kind of improvement and in every species of wealth! Look at the State which I have the honor to represent, whose apprehensions about banking institutions have made her averse to the extension of such establishments. The result has been that, notwithstanding she is, perhaps, the greatest agricultural State in the Union, furnishing more copiously (and the most valuable) articles of export, and possessed of all the materials of commerce, she is destitute, in a comparative degree, of commerce itself. When cargoes of wheat, flour, or tobacco, are wanted in Europe, a merchant of Philadelphia is applied to to furnish these articles, though they are to be purchased in Virginia. But wherefore? Because, having no banks in Virginia that are adequate to the wants of society, our merchants cannot afford to advance the money, purchase the cargo, and draw for the amount. On the contrary hand, the Philadelphia merchant can go into a bank, get as much money as he wishes to purchase a cargo with, send it on to Virginia and make the purchase, and, after the vessel is loaded, draw on the owner for the amount of the cargo and his commission. Comparatively speaking, all mercantile profit is drawn from us; our produce is exported and our imports imported by the merchants of other States, who derive all the profits of our commerce, which, in a different state of things, would remain with us and constantly increase the wealth and resources of the State. I have been induced to enter into this train of reasoning and statement of facts, in order more clearly to illustrate this position, to wit: that in order to prevent a banking institution or its directors from having a political or other improper influence, it was not necessary to destroy an institution which was in itself useful, but to correct its abuses by extending the banking principle till all good paper could be accommodated. I have stated that in Pennsylvania, until the present alarm which this discussion has produced, any person deserving credit could obtain it to any extent he wished. The banks in such a situation compete for customers; and, in such a state of things, the bank, not being able to accommodate all, must select its favorites, which gives to them particular advantages which others do not possess, and enables them to apply to usurious purposes the money they get out of the bank, by lending it to others, who, if there was a sufficiency of banking capital, would themselves go into the bank and be accommodated with that very money for which they now pay an usurious interest. Such a bank is an evil, and in such a state of society, where there exists such a difficulty of loaning

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ors, they are incompetent for all the purposes of influence.

Mr. GILES said it was with regret he interrupted his friend, but he seemed to suppose the banking capital at Richmond was so small as to convert that city into a society of shavers. This was not correct. He, Mr. G., had a conversation with the president of the bank, from whom he understood that the bank could do more paper than was offered to it.

Mr. BRENT said he had heard no positive information as to the fact he stated; but it was well known that men as good as any in the United States had not been able to get their paper accommodated. He knew the President of the bank, for whom he had a sincere veneration and affection. No blame attached to the bank. He said that the establishment of a bank anywhere, however pure, provided it was not adequate to the wants of society, would produce shaving.

Mr. B. said he had many other remarks which he wished to submit, but the hour was so far advanced he would not trespass further on the attention of the Senate at present. If a fit opportunity should hereafter occur, he might again take the liberty of making a few observations on this subject, but he would avail himself of this occasion to say that he did not mean to make any reflection on the Directors of the Bank of Virginia; they were not in the smallest degree censurable. He believed the affairs of the bank were ably and honorably conducted by them.

TUESDAY, February 19.

The credentials of JOHN CONDIT, appointed a Senator by the Legislature of the State of New Jersey, for the term of six years, commencing on the fourth day of March next; and of WILLIAM B. GILES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the fourth day of March next; were severally read, and ordered to lie on file.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed;" and the bill was ordered to the third reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory;" and the bill was ordered to the third reading.

The Senate resumed, as in Committee of the

Whole, the bill, entitled "An act to amend the act, in the same manner as is provided by law in the case of purchasers of public lands fail to complete their first instalments;"

It was determined in the affirmative—yeas 22, nays 2, as follows:

YEAS—Messrs. Anderson, Bayard, Campbell, Condit, Crawford, Cutts, Franklin, Gaillard, Giles, Gilman, Goodrich, Gregg, Leib, Pickering, Reed, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Bradley and Lambert.

The bill having been amended, the PRESIDENT reported it to the House accordingly.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. CAMPBELL, from the committee to whom was referred the bill, entitled "An act to authorize the election of sheriffs in the Indiana Territory," reported it with an amendment; which was read.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

Mr. TAYLOR.—Mr. President: Although much time has been consumed in the discussion of the subject before us, and the ground completely occupied by those who have gone before me, yet the importance of the subject, the immense magnitude of the unhappy consequences likely to result to the nation from the rejection of the bill on your table, compel me to offer to it all the support in my power. Indeed, sir, to this sense of duty to the nation is superadded a very sacred, and to me indispensable duty—my duty to the State which I have the honor in part to represent, as well as another duty, which, from the course the debate has taken, is not to be disregarded; I mean, sir, the duty which I owe to myself.

I cannot, as other gentlemen have boasted they can, put my hand into my drawer and pull out the instructions by which I am to be directed on this important subject.

The State of South Carolina is a very large stockholder in some of her State banks, and if a selfish policy, contracted to the narrow sphere of the unique advantage in dollars and cents of the government of that State—in contradiction and disregard of the great body of her own citizens, and the citizens of the rest of the States in the

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which on all former occasions has distinguished her conduct; that neither selfishness, nor party rage, nor a spirit of intolerance, has induced her to counteract or embarrass the National Legislature in its pursuit of the great object of its institution, the good of the whole.

I hope it will not be considered as savoring of egotism when I say that my appointment to the very honorable station I now hold was unsolicited by me. That my sentiments on the subject now under consideration had been by me unequivocally expressed at the last session of Congress, and were well known to those who appointed me. Nay, further, after my venerable and respected predecessor had resigned his seat here, and had declined, also, his appointment for the ensuing six years, pending the election of a successor to him, and when my name was held in nomination, a resolution was offered, similar to those which we have heard so much talk about, proposing to instruct the Senators of that State to oppose the renewal of the charter of the Bank of the United States. This resolution, as I am informed, lay on the Speaker's table when the election was gone into. I was elected, and the proposers of the resolution had not power nor influence enough to raise it from the table on which it lay, and it died stillborn at the end of the session; and if I were to make an inference at all on these transactions, I should suppose I was tacitly instructed to vote for the renewal of the bank charter. But I seek not the avoidance of responsibility. It is here, sir, in my own bosom, I have instructions paramount to all others. My beloved country has rested the matter here, and my gratitude is superadded to all other moral obligations operating on me to perform this trust, and to execute this duty with faithfulness. I find the authority of Congress to grant this charter in the same sections of the Constitution which the gentlemen who have gone before me have pointed out to you. In section seven, clause first, power is given to Congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States; but all duties shall be uniform throughout the United States."

Clause second gives power "to borrow money on the credit of the United States." And, in the last clause of said section, power is also given to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States, or any department or officer thereof.

necessity, as used by Hobbes, Hutchinson, Hume, and the other metaphysicians of the last century. It is well known that they used the substantive *necessity* as synonymous with the word *fate*, and which *necessity*, according to the opinions of one party, controlled omnipotence itself. This necessity was supposed by them co-existent with the Deity itself, not prospective nor discretionary, bending in one way, and in one way only, all substance, all matter, and all spirit. This meaning of the word is only to be found with these metaphysicians and philosophers; but in our law books, in the daily and hourly use of the word in common conversation, it has no such meaning. When the old Congress passed the conditional charter—which I admit they had not a delegated power to grant, but which is fully in point, both as to the signification of the word and, also, of their opinion of the necessity, and even indispensableness of a bank for the administering the fiscal concerns of the nation—in the conclusion of the preamble they say that the exigencies of the United States render it indispensably necessary to pass the act, &c.; and in the laws passed during that period, when this Government was in the habit of following the English custom of beginning the laws by a preamble, you find the word *necessary* used as synonymous to *expediency*—practical expediency, (see *Laws of the United States*, vol 1, page 247; *idem*, page 276.) in fact, among frail mortals with fallible judgments like ours. With any beings endued with less than omniscience, the word *necessary* must be only applicable to the honest judgment we can make up concerning the subject to which we apply it; in other words, it is resolvable into that sound discretion with which, as moral agents, we are in the first instance intrusted by our Maker, and in the instance now before us, we are intrusted with by the Constitution and by the citizens who have sent us here to transact their business. But the rigid *necessity* which our opponents wish to enforce on us, this metaphysical necessity, must, from its very nature, be immutable; it must be unique, and could not exist in a greater or less degree; and, therefore, the word joined to it in the Constitution (*proper*) could have no meaning at all. The laws, to be passed, must be necessary, is the only one way given under heaven by which you are to effect the end desired; in other words, the law must be imposed by Fate. It is perfect nonsense to say that there is a latitude left with us to judge whether such a law is proper or improper. I have, I think, brought the meaning of the word *necessary* to the level and within the comprehension of frail human intellect.

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necessary to receive and take care of the revenue of the nation. They have, by their statements, shown that there is little more than one-half of the amount of specie in the country which the national revenue rises to annually, and the burden of the song is, that State banks will do.

Banks are, then, necessary and proper for the collecting, transmitting, and safe keeping of the revenue. Banks are created by law. Congress, by the Constitution, have the right of passing laws necessary and proper for the foregoing purposes. Banks are necessary and proper for these purposes; therefore, Congress have the right of passing a law to make a bank or banks. But, the power of granting charters and creating corporations is the exercise of the highest act of sovereignty say our opponents. I know no scale by which these acts of sovereignty are graduated. The power of legislation implies sovereignty, and the description of a high law and a low law is hardly to be found in any book I have yet met with. I will not dwell on this topic. The arguments of the gentleman from Virginia (Mr. BRENT) on this point are unanswerable. It is curious to observe the extremes to which some of our statesmen carried their doctrine twenty years ago, on this subject of charters and corporations; and I have recently met with some who deny that any Government has the right to grant them. Our little town corporations, and our city corporations, in the State I live in, have had to pass through the legal ordeal to satisfy the doubts of those who entertain this opinion. But now, all the States undoubtedly exercise it, or rather, they have continued to exercise it from their first existence. So have we, in legislating for this Territory. If this power is derived from the broad terms of the grant to pass laws for this District, in all cases whatsoever; and if the unlimited, unrestricted grant thus made, is supposed to dub us with the higher or quintessential sovereignty, I think it would not be a difficult matter to prove that this broad grant is, in fact, as much limited and restricted, according to its nature, as the grant of power in the concluding clause of the eighth section, which I have before cited.

Can Congress even pass a law respecting the Territory of Columbia, which, according to their opinions, shall not be necessary and proper? The well-being of its citizens, or the well-being of the citizens of the whole nation, (for even legislating the Territory into non-existence, if we could do so,) these would be the motives; in fact the Legislature must be *non compos mentis*, who could or would assign as a general reason, for any of its acts, one opposite to this one of its be-

gave power, which I contend, its being suffered to remain is proof that it was not the design of the amendment to take away the power given. Could not the Territory of Columbia have been governed without erecting a single corporation in it? I don't mean well governed. But was there that fatal necessity; that command from Jove,

"Ye fates fulfil it, and ye powers approve,"

to erect corporations? This legislation to erect corporations being, according to our opponents, *sui generis*, not of the ordinary kind, and only to be exercised where the express authority is given by the Constitution, I ask gentlemen to show the clause in the Constitution which expressly gives us the power to perform this sublimated act of legislation in this Territory any more than in any other part of the United States; and yet at this very session we have sent an armful of these high acts. The shelves of the office of the Secretary groan under the pile of charters we have granted.

I said it was easy to prove that the broad grant given to Congress to legislate for this Territory in all cases whatsoever, was restricted and paled in by the Constitution. Congress cannot make the duties here on imports less or greater than elsewhere in the United States—imports and taxes must be equal, &c.—nor deprive the citizens thereof of the right to a trial by jury, nor grant them titles of nobility; and yet the incidents here alluded to would come under the description in the clause "of all cases whatsoever." In truth, sir, there is not a scintilla of the spirit, nor a single word or letter of the Constitution, that loses its power and sanction upon our conduct in legislating in this particular. There is no more a power given us to legislate *ad libitum* on this Territory, nor to derive therefor powers by implication, than is given us in the laws we pass for the whole nation; and if this power, *sui generis*, of creating corporations, is properly defined by our opponents, they ought to go back to the works of yesterday, as well as to those of twenty years standing, in order to introduce their new order of things. I might here draw a comparison of the tried scheme of using the United States' Bank, and the untried scheme of using State banks in aid of the operations of the National Treasury; but I should only be saying with less force what has been so fully and so conclusively said by the gentlemen who have preceded me. Suffice it to say, that for safe-keeping, for transmission and payment of the funds to any part of the nation, and for enforcing the punctual payment by the debtors to the customs,

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science, I deemed it necessary to be thus particular. I have no hesitation in saying, we have the right to act on this subject, inasmuch as I think the bank is both necessary and proper for the purposes above referred to.

To me it appears that this power is expressly granted; we derive it not by implication; but our opponents, in fact, are pressed to the necessity of using implication to come at the denial they set up against the exercise by Congress of this power.

I say, further, that this institution is necessary and proper for carrying into effect another general power, viz: The power to borrow money on the credit of the United States.

I am one of those, Mr. President, who have always thought a superabundant Treasury was no national blessing. It is very easily to be demonstrated that as to the effect of accumulating national wealth, one dollar in the pockets of our citizens would add twice as much to the common stock as the same sum taken from them and lodged in the strong box of the Treasury. None but the nerve of a rigorous and miserly despot, such as was the father of Frederick the Great, of Prussia, could ever keep it together after it was collected. I fear that we Republicans are so generous in our natures, that in some way or other, for some favorite project of a fortification or fortifications, whether by land or water, we should let it go, and think, too, we were doing the greatest possible good with it. For sudden emergencies then, I conclude, while our Government lasts, we shall have to anticipate by loans, taking care, as I hope we always shall, and as we have done, to provide for the early release of the Government from such obligations, which the necessary or sudden emergencies are not to be suffered to accumulate. The Bank of the United States serves for effecting both objects—quick and reasonable loans. One clause of the bill compels the bank to loan to the United States the amount of half its capital; and the form of these loans, as heretofore practised by the Government, is by a mere entry in the bank books, and in the books of the Treasury of the United States, of the money borrowed, and the interest stated, which is payable thereon; in other words, there is no transferable stock delivered out, and which the Government cannot redeem whenever it pleases. I ask gentlemen, if the Government is not bound to provide the means necessary and proper of exercising this power of borrowing, and whether there can any way be devised, a more proper mode for the advantage of the nation, than the plan proposed; and will not this ready re-

lap of the Government, if to them it should apply for a loan. The same boasting took place at the time this Government made its only experiment to borrow money from its citizens. Yes, sir, when there was a mighty rage against France, and the Government was urged into the expensive measures of that day, the experiment was made, and we had to give usury—sir, we had to give an interest of two per cent. more than the legal interest in the States where the loan was effected. The present crisis is an awful one. The system of non-importation is now in operation, which hermetically seals the lid of your Treasury box to the admission of revenue. It is known we shall have to borrow money. And after you put down this bank, where is the loaning capital of the nation to be found? I'll tell you where; it is under the management of the State banks, and those banks, at least in the largest money-holding State in the Union, (Pennsylvania,) are precluded from loaning to the United States, unless by consent of the Legislature. Will you go to those gentle and good souls, who give to the distressed the good bargains which the gentleman from Maryland (Mr. SMITH) told us of? Will you apply to the mercy and kindness and patriotism of those ravenous sharks and shavers, who are even considered as acting very moderately when they take from the distressed their one and an half per cent. per month, or eighteen per cent. per year, for the use of their money? I don't expect much patriotic support from such men as these; they would spurn you with contempt, if you offered them your pitiful and beggarly six per cent. But the State banks are the panacea for all difficulties—they may lend you the money you want, provided you get the consent of the State which granted their charters. But all the States have not restricted their banks from lending money to the United States. I am contemplating this not for a day only. Do you believe that New York or Maryland, after experiencing the effect which this controlling power of the State over the money of its citizens shall have on the General Government, will act so unwisely as to forego the advantage of influence in the Union derived from their dollars and eagles, and act so unjustly to themselves as not to follow the example? Why, sir, not for selfishness-sake, but for the sake of fair play, they ought and would do it. The States ought as little to disparage us in the exercise of our legitimate functions as we them—yet, by the operation of these State charters, millions of money are put out of our reach unless by their consent—when, by the Constitution, we are undeniably

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old age in this Government; I beseech them, not to disfranchise the Government of the necessary powers for carrying it into effect, and not to throw away the experience and the acquiescence of the nation for twenty years duration; and I most fervently beg that this power should not be surrendered to the great and leading States because they have inconsiderately asked for it; that Congress will not, in imitation of the good old Lear, yield to the members of our family what is wholesome and necessary for supporting our own household. Soon, very soon, the eyes or ears of one or more of the members of our family may be offended at the sight of our committees, our mendicant missions lounging about the lobbies and galleries of the State Legislatures, as some of us have been offended at the presence of the missionaries lounging about our galleries; we, who are now supplicated, will then be supplicants. While we succumb to the views or prejudices, or State policy of each particular State, from whence we implore the permission to borrow, we may succeed; but, act independently, run counter to their local feelings, they will not lend you a doit. Think you, sir, that the State of Pennsylvania would have consented to your making a loan from its banks at the period at which General Bright was in battle array against your authority? Think you, that Massachusetts would have treated your *beggars* kindly during the embargo ferment? Would the gentleman from Maryland, with his high standing in that State, the turn of whose *politics*, he says, may depend upon the continuing of this bank—could he, sir, with all his commercial knowledge and the eloquence he displays, have obtained the grant of a favor to the Government of the United States about two years ago? Ah no! sir. When civil broils, when political intolerance and party rage, shall pervade a Legislature, they will act as other men, and if excited only to the height which the newspapers seem anxious to excite them on the present occasion, there might be rashness enough found to induce them to use your messenger as was used the good old Kent, when supplicating in the cause of his houseless master. The gentleman from Virginia (Mr. GILES) has called the attention of the Senate to the 9th article of the amendments of the Constitution, viz: "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage *others* retained by the people." Now Congress have the *power to borrow money*, and from plain and necessary implication, though not by express delegation, (such as is required by gentlemen in the instance before us.) we have the power to *for the purpose of*

exerted, I should suppose he was very lucky that he was not as much harassed as were some of the victims under his sedition law. Carry this doctrine of rigid construction in respect to this instance of collision of State and United States authorities to the extent contended for by the opposers of the bill—enforce to the fullest extent, according to its obvious meaning, the amendment last quoted, and we shall be surrounded with powers which we dare not use. We may borrow; but the citizens will not lend for the legal interest established by law—their States prohibit them lending at an usurer's interest, and impose heavy penalties if they do; or, to embarrass the General Government, the *States* or *some of them* holding the moneyed capital may prohibit individuals as they have prohibited the banks from lending to us, and thus benumb all our energies. In fact, sir, the doctrines and notions I have heard enforced here, seem calculated to place us in the situation of the miserable Tantalus; the limpid and wholesome stream is within our reach, but we dare not reach out our hands to take up a drop to cool our tongues, destined to the sufferance of eternal thirst. Let me now inquire how the destruction of this bank is to operate on the nation at large. By the minute detail of the honorable Senator from Maryland (Mr. SMITH) of the mode and manner, and by what commercial operations, the foreign capital in this bank is to find its way out of the country, I take it to be one of his motives for putting down this bank, that the foreign capital should be drawn out of the country. Indeed, if this were not his object, I cannot see why his heaviest artillery was brought to bear upon the foreign influence which he alleges this foreign capital brings into the country; and yet neither he nor any one who has cried aloud against this *sin* has produced a single instance of a foreign stockholder having exerted his influence against the Government of this country. (*Barling's* book on American affairs might be adduced as an instance of the opposite effect produced.)

The farthest that the assertions go, is that our own citizens, Federal bank directors, may have exerted their influence, and they and their money, which is not proposed to be annihilated by this bill, may, and probably will be brought to bear against us again and again; and the only remedy I see would be to kill them and take their money—this would effectually destroy their influence. To return, sir, to the grand object of drawing out seven millions and upwards of foreign capital from this country. I know that some have asserted with great confidence that the section of

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and rivers in the world, her shores are bold and her waters deep, affording ports and harbors in more abundance than are to be found in any State of the Union. Look at the weight of tonnage employed in carrying to the Old World the immense proceeds of this productive country; their citizens equal in intellect and enterprise to any in the world. What is the reason that they pay a transit duty annually to New York, Philadelphia, and Baltimore, to more than double the amount of their State bank stock, in profits to the shipping merchants in those cities, in freights coastwise of the produce, and in the freight also coastwise of European supplies? Does this evidence no want of commercial moneyed capital within the reach of the citizens? Travel through it, compare it with the Northern States—at every step you see apparent the disadvantages it labors under in this respect. Why, sir, the circumstance of the basin at Richmond, with a fall of nearly one hundred feet, remaining for ten years a stagnant pool within the heart of her capital city, when with this power more machinery than is to be found in half the manufacturing towns of England might be propelled, *tells the secret.*

It is a well known fact that the trade of North Carolina, with the exception of a few vessels with naval stores and lumber, makes its humble attornment to the city of New York. South Carolina and Georgia have a small portion of their commerce direct with Europe; but the thousands of bags of cotton shipped from the ports of Philadelphia, New York, and Boston, the circumstance of there being eleven packets constantly trading to New York alone from Savannah, and as many or more from Charleston, show plainly that this transit duty is paid by us also. The French Emperor knows this as well as we do ourselves, and his provision for admitting cotton from New York is not because he did not know the article did not grow there; but because he knew the capital there acted like a loadstone and drew the article from the States in which it grew. I do not mention these things invidiously; I wish prosperity to those cities as well as to the whole Union—but protract not the growth of other parts of the United States by driving out the means from the country by which they have grown, and which, if let alone, might be extended to us also. No man who has attentively considered the rise, progress, and growth of these States, from their first colonization to the present period, can deny that foreign capital, ay, *British capital*, has been the pap on which we first fed, the strong aliment which supported and stimulated

our capital. In the progress of the digging of the Santee Canal, the greatest work of the kind in America, the expense so far exceeded the calculations of the company who had undertaken it, that many of the stockholders, like all sanguine calculators, were straitened in paying up their instalments as they became due—these obtained accommodation at the bank; but even then it was found difficult to progress, and at length the company actually borrowed of the branch bank the funds to complete it, and, unless it has very lately paid, the company still owes a very considerable sum to the Bank of the United States; and but for this accommodation it is more than probable that this great work, which is capable of facilitating to a most convenient degree the transportation of the products of nearly half the State of South Carolina, might never have been accomplished. We have heard much of parties and party spirit in this discussion. I'll tell you, sir, who will compose the parties in the immediate concussion about to be produced by the downfall of this bank—the withdrawal of fifteen millions circulating medium either in actual paper bills, or in bank credits, answering the full purpose of circulating medium, while the merchants are under distress from foreign aggression, and while the Government has commenced its restrictive system on mercantile operations; while it will make the money more scarce, will make it more dear, and, of course, will make property more cheap; produce will fall; it has fallen in consequence of the anticipations on this subject. The small trader, and the young, industrious, and enterprising mechanic and manufacturer, whose stock (and it is the best stock in the world) is his honesty and fair reputation, and on which the banks have advanced him money, must pay off at any and every loss, or perhaps buy his money at the moderate premium of 1½, 2, or 3 per cent. a month. These men, such as the worthy suppliants from Philadelphia represent, will be delivered over to be devoured by the sharks and shavers who are now prowling for their prey among the distresses and calamities you are about to inflict on that class of citizens, the most worthy the care of a wise Government. The parties are the rich cash-in-hand men on the one side, and the great agricultural and manufacturing interest and the small traders on the other. If I had only heard and not seen the gentleman from Tennessee, (Mr. ANDERSON,) when delivering his oration in praise of republican simplicity, I should have thought we had another Diogenes preaching from his tub; but there needs no oratory to convince the mission in your gallery and their

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part of our Union. But, either the gentleman or I have proceeded together upon very mistaken grounds. I thought the seizing of West Florida was, among other objects, to answer the purpose of giving an outlet for the products of Tennessee and the other Western States; I thought, too, the purchase of Louisiana at fifteen millions, to be paid by the whole nation, was for this object also; and I cannot suppose that the effecting of this object would tend to make the people poor, or preserve among them this republican simplicity of manners—on the contrary, I do hope and expect, that it will tend to promote the industry and enterprise of the citizens, and develop the vast resources of wealth, profit, and strength of our western brethren. Perhaps the resolution on our tables, for imposing additional duties on hemp and hempen manufactures, is also designed to promote the wise project of keeping our western brethren from growing too rich, and thereby preserving our republican simplicity.

I have not yet done treating this as a party subject. I did not, it is true, come here to legislate for a party or for any particular Administration—but where I think a measure is subversive of the interests of the nation, and subversive of the party to which I am attached, it is not unfair to take this latter aspect into view also. Let it be recollected that the present Administration have not a single leading (for they arrogate the term as well as the States) paper, republican nor federal, in the nation, except the paper edited here, (which is mild in its tone and not as yet disposed to rush into the fire to defend the powers that be;) I say let it be recollected that there is none of these irresponsible dictators to public opinion who lift a quill in our cause. The constant theme is the baseness and tergiversation of the tenth and eleventh Congress, and the wickedness and corruption of the servants of the public, and ever and anon their lash reaches beyond our shoulder and strikes the Executive also—but more is coming yet from them—they have shown their teeth. It is true we may follow those calling themselves republican in the vote which we are now about to give. But do you think for this act that they will come back to your aid—that they will take us for better for worse? No, sir; when the evils which will be produced by the rejection of this bill, when private distress and public embarrassment shall raise the outcry, they will ride on the winds and direct the storm, and will be the first to cry out there is no energy in us, and to join any intrigue to hurl us from our seats. It is easily to be demonstrated that by the details of the bill on your table, if its friends were suffered to per-

are not such fools as not to see that what is taken away from the Treasury is taken from their pockets—you may disguise it as you will by procrastinating loans, it will not escape their detection.

And for whom is this mighty sacrifice to be made. If the ministering to the Treasury of the United States is worth to the Bank of the United States so much that it will accept the terms above-mentioned, and you resolve to employ others to do the same thing, is this office, worth so much to the Bank of the United States, worth less to them? This is the lever. Here the real parties are apparent. The nation—the great agricultural interest, the solid yeomanry of the country on one side, and the city influence, the London and Paris influence, on the other. The advantage palpable of nearly four millions of dollars wrested from the Government, and of course from the people, and sent to whom? To the great capitalists, monopolists of State banks, to the Leadenhall-street gentry, whose insatiate maws could not be glutted by the plundering of an empire. Do you believe, sir, that the great body of the people, who are actuated by the impulse of feeling, and who may not indulge in the nice distinctions we have drawn here about the Constitution, but who have experienced the convenience of a circulating medium current over the whole extent of the Union, and who have witnessed your numberless acquiescences to the legality of this institution, and read your laws for punishing those invading its rights, and your numerous laws for trusting, trading, borrowing, and receiving favors from this bank—will this, your recent discovery of its unconstitutionality, be an excuse for giving away twenty per cent. on all their produce, and for the giving away double the amount of that tax, for the imposing of which they condemned your predecessors? I fear for the safety of the Constitution itself. It has been denounced by those who have denounced us. The feeling is quickly transferred from the ministers under the Constitution to the Constitution itself. The clamor has gone forth that we want energy—that the Constitution wants energy—and a vast remedy has already been proposed by the *Aurora* itself—to give Congress the power to lay an export duty upon the productions of the country; more of your London and Paris influence—to lay the agricultural interest under the ban of the empire. Consolidation is the watchword. Preserve your Constitution without abandoning its legitimate powers, such as you have prospered in the exercise of, and I fear not this hobgoblin; but weaken it,

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ring the revenue derived from a part of Virginia (and of the land funds from the westward,) and of the Manhattan Bank, in performing the same office in respect to the collections in Connecticut, have been dwelt upon by the honorable Senator from Maryland (Mr. SMITH.) His arguments drawn from the facts would have been more conclusive if he could have instanced the same facilities afforded to the Government between banks disconnected by the effect of that neighborhood circulation and of that course of trade very apparent in the instances he has produced. But it is not conclusive at any rate. There is a neighborhood medium of circulation (the State bank paper,) and there is a national medium (the United States paper.) The latter, under the present state of things, corrects the operations of distant banks and renders their transfers easy; but, deprived of this, would any of them, situated at four or five hundred miles, or at one thousand miles distance, agree to make these transfers for the Government free of expense? Could they, for instance, transfer the solid bullion belonging to the United States from Orleans to Boston or Philadelphia, without our affording compensation for freight, insurance, &c? I have witnessed the advantages of this national medium in the State I live in; and in the months of Autumn, when strangers are fearful of venturing to Charleston, our western friends, rather than carry the hard dollars, are in the habit of giving two or three per cent. for bills of the Bank of the United States. Destroy this national medium, you insulate the State banks, which are so far asunder as not to be within the influence of the neighborhood medium of circulation. The stroke of our dreadful wand disconnects the ligament by which they are bound together in their distant operations.

Gentlemen tell us we must use the State banks; and of consequence the State bank notes. Some of these notes happen to be worth nothing—Gloucester bank notes, for instance—and they are graduated in different parts of the continent from par down to twenty or twenty-five per cent. below par, and the market value is in some instances perpetually changing—our Treasurer must, if he can, separate the sheep from the goats—and this is to be perpetual labor. Even good notes at par when received may be useless to the public creditor who is to receive them. A Portland bill, for instance, would not get me a meal's victuals from this home, and an Augusta or Savannah or New Orleans bank bill would not have its value understood in New England. Indeed, Mr. President, this chaos—this confusion

that after the trial and after long experience to come, all that I have said should be discovered to be founded in error, the effect of a heated imagination, than that my country should suffer a single pang, though in fulfilment of the things I have this day uttered.

Mr. PICKERING.—Mr. President: Having received, from the House of Representatives of Massachusetts, an instruction in the form of a request, "to oppose the renewal of the charter of the Bank of the United States," and some other members of the Senate having received from their respective States instructions to the same effect, I will make a few observations on the subject of instructions.

I was pleased to hear the gentleman from Virginia, over against me, (Mr. GILES,) after reading his instructions from that State, express his opinion decisively, that instructions from constituents were not binding on their Legislative Representatives. Concurring entirely in this opinion, I will offer some reasons to show, that they are erroneous in principle; that they infringe the rightful independence of representatives; and, in respect to members of Congress, that they violate the Constitution of the United States.

In a small community, where all its members can meet together and consult on the measures necessary and proper to promote their common interests, their decisions are the result of deliberation, of reasoning and of the interchange of sentiments. When the members become too numerous, or are too widely extended, to admit of their personal attendance in a general assembly, it seems to be a very natural provision to select a convenient number of them to meet together to manage their common concerns; in the same manner they were before conducted by the whole community. And thus, from the very nature of this institution, it becomes the duty of the persons composing the representative body, to consult, deliberate, and mutually communicate their reasons and opinions; and thereupon finally to decide on the measures requisite to be adopted for the welfare of the community. Hence it follows, that all peremptory instructions, or naked requests, designed to control or influence the votes of the representatives, are subversive of the fundamental principle of a representative Government.

Such instructions or requests, addressed to members of Congress, do also violate the Constitution of the United States. The first sentence in that Constitution is in these words: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

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If, indeed, a State Legislature should, in the form of instructions or requests, enter into a train of reasoning, and present arguments which should convince my understanding that any measure under consideration in Congress, was or was not consistent with the Constitution, and exhibit facts which proved its utility or injurious effects, then I should yield obedience accordingly; but to what? to instructions or requests? No; but to reason and to truth.

In another respect, such instructions and requests violate the Constitution, in regard to the members of this body. Senators are chosen for six years. This was intended by the framers of the Constitution, to give them that independence which should secure freedom in thinking and acting. But, if Senators were bound to obey the instructions of their respective State Legislatures, that independence would be wholly destroyed. Indeed, it would put Senators as absolutely in the power of their constituents, as if the State Legislatures had the right to recall and dismiss them at pleasure.

I will now, Mr. President, make some observations on the main question under consideration. Whether Congress have the power by the Constitution to renew the charter of the Bank of the United States?

It has been said that the power to incorporate a bank for the United States is a substantive and original, and not a derivative or implied power. This has been repeated, but I have heard no arguments in support of the position; it is naked assertion.

It has also been called "an act of sovereignty;" as if to alarm and deter us by its awful magnitude. But, sir, the sovereign power of Congress is sometimes exercised on subjects of comparatively little moment. A few days since we passed a bill to authorize the erection of a bridge; and another, to change the name of an individual, to enable him to inherit an estate. The power of Congress is sovereign to all the purposes of the Constitution. They can lay and collect taxes, duties, imposts, and excises; borrow money, regulate commerce, and make all needful rules and regulations respecting the territory and other property of the United States. And they have the power to make all laws necessary and proper to carry the foregoing and all other Constitutional powers into execution. When proposing to exercise this general power, in any case not expressly mentioned, we have to consider whether it be "necessary and proper." It has been said that "necessary" here means indispen-

like State Legislatures, do whatever is necessary and proper to attain the objects for which they are respectively constituted.

In determining whether any proposed measure be necessary and proper to carry into execution any power expressly given to Congress, we have to consider whether that measure have a just or useful relation to the end. For instance, the Constitution having prescribed no mode of collecting the revenues, it rested in the discretion of Congress to adopt such a mode or such modes as should appear to them best adapted to that object. Instead of appointing custom-house officers in the large commercial cities and towns, where a banking establishment could be supported, Congress might there have erected banks, as the most certain, punctual, and cheap mode of collection. Suitable officers of a bank might have performed all the duties of entering and clearing vessels, and all other duties pertaining to the custom-house, without any charge to the public; the deposits of the public moneys so collected in those banks, upon which the usual banking operations might be carried on, yielding an adequate compensation for all the services so performed.

The public revenues, when collected, must also be safely kept. An experience has demonstrated that, of all depositaries, banks are the safest. And the same experience has shown that, as the public moneys are required to be frequently transferred, for the public expenditures, from one State to another, the Bank of the United States, with its branches, has furnished the best mode of transfer; it being effected with dispatch, with certainty, and without any risk or expense to the United States.

The gentleman from Kentucky (Mr. CLAY) asked, if banks are necessary for collecting the public revenues, why give them any other power? The answer is, that it is the essential nature of banks, which renders them so peculiarly fit to collect the revenues. The merchants, whose bonds are lodged in the banks for collection, are also borrowers of money from the banks; and if they fail of paying their bonds, as they become due, their credit will fail; they can obtain no more loans until their bonds are paid. This has just been presented to our view, in the most striking manner, by my colleague.

"To borrow money," is another of the great powers expressly vested in Congress. And in this, as in the power first considered, no mode of borrowing being prescribed in the Constitution, Congress are to devise and provide the means in their judgment most sure, expeditious, and am-

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and to have recourse to State banks, will be so far going back to the condition of the United States under the articles of Confederation, when our Union was but a rope of sand. When the pressure of the Revolutionary war was over, indeed, while that pressure remained, Congress in vain made requisitions on the individual States; no money, or none in any measure adequate to the public exigencies, could be obtained. After the war, when the public treasury was empty, Congress importuned—implored the States, individually, to grant the power to raise a revenue from commerce, to defray the current expenses of the General Government, and to fulfil the public obligations, but the power could not be obtained. States, deriving large revenues from commerce, chose to retain them for their own treasuries.

It was this helpless, forlorn condition of our country, which forcibly convinced the nation of the necessity of forming a new system of Government; and our present Government was the fruit of that necessity.

"To regulate commerce" is a third great power vested in Congress. And it is conceived that the exercise of any power well adapted to give safety, facility, and prosperity to commerce, must be comprised in the power to regulate it. Hence the erecting of light-houses has been mentioned as an instance in which an implied power, incidental to the regulating of commerce, has been exercised. But it has been said that this power is expressly given in another part of the Constitution; that by which Congress is vested with exclusive legislation over the district which is the seat of Government, and over places ceded to the United States "for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." But if we had no commerce, no navigation, light-houses would not be "needful buildings," they would be of no use whatever. Hence it is clear that they have a direct relation to commerce and to nothing else; and, therefore, the erecting of them is properly adduced as an instance of the exercise of a power implied in the general express power to regulate commerce.

The safety and facility of commercial operations was also greatly to be promoted by means of a general currency which should have equal credit throughout the Union. This has been accomplished by the notes issued from the Bank of the United States, under the authority of Congress, exercising the power incidental to that of regulating commerce.

A fourth great power, which I mentioned to have been vested in Congress, is that of "making all needful rules and regulations respecting the

where it may safely deposite the public revenues, there to await the public demand; and, in the mean time, usefully aid those banking operations which give facility to commerce and to public loans.

But as an evidence that the constitutionality of the act to incorporate the Bank of the United States was at least doubtful, we have been told by the gentleman from Maryland, (Mr. SMITH,) that President Washington doubted; that his mind was in suspense to the last moment, when the act was to be approved or disapproved. That while the then Secretary of the Treasury, (Mr. Hamilton,) a very great man, maintained the Constitutional power of Congress to erect that bank, another man (Mr. Jefferson) equally great, then Secretary of State, and the Attorney General, (Mr. Randolph,) a distinguished lawyer, maintained the contrary doctrine—that Congress had not that power. It is true, sir, that Washington, cautious and circumspect beyond any man I ever knew, did suspend his decision to the last day allowed him by the Constitution. The confidence with which the Secretary of State and the Attorney General supported their opinions on this question, was sufficient to excite in the President the greatest caution. Both were lawyers, and they raised many legal objections. The written opinions of these gentlemen were (as I have been well informed) put into the hands of the Secretary of the Treasury two days before it was necessary for the President to decide. And the reasoning of Mr. Hamilton, in his written argument, enabled the President to decide with satisfaction; with a full conviction of the constitutionality of the act.

The following are some of the objections offered by the Secretary of State. He said—"that the proposed incorporation (of the bank) undertakes to create certain capacities, properties, or attributes, which are against the laws of alienage, descents, escheat, and forfeiture, distribution, and monopoly. And that nothing but a necessity, invincible by other means, can justify such a prostration of laws which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State governments." Washington, sir, was not a lawyer, and who can wonder that his fair mind was alarmed by such a solemn declaration? That it was kept in suspense by the assertion, that the act for establishing the bank would overturn the pillars of our whole system of jurisprudence, and the foundation laws of the State governments? But, sir, it required only the knowledge of a law-

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'mental law of a State government which is not established in its constitution, unalterable by its ordinary legislature."

"To erect a corporation, is to substitute a legal or artificial for a natural person; and, where a number are concerned, to give them individuality. To that legal or artificial person, once created, the common law of every State, of itself, annexes all those incidents and attributes which are represented as a prostration of the main pillars of their jurisprudence. It is certainly not accurate to say, that the erection of a corporation is against those different heads of the State laws; because it is rather to create a kind of person, or entity, to which they are inapplicable, and to which the general rule of those laws assigns a different regimen. The laws of alienage cannot apply to an artificial person, because it can have no country. Those of descent cannot apply to it, because it can have no heirs. Those of escheat are foreign from it, for the same reason. Those of forfeiture, because it cannot commit a crime. Those of distribution, because, though it may be dissolved, it cannot die." Sir, I beg leave to add a few explanations. By the laws of most, perhaps of all the States, aliens are not permitted to hold real estate; but in all they are free to hold personal property of every kind, and particularly bank stock. The law of escheat relates to the property of a citizen who dies without heirs, near or remote, and without a will. In such case his property falls to the State. But instances of escheat do not occur perhaps twice in a century in any State, and, consequently, is of trifling moment. Although a corporation cannot commit a crime, it may violate the rules prescribed in the law for its establishment, and thus incur an immediate forfeiture of its charter. Or, if for such a violation of its fundamental law, or any mismanagement of the institution to the public injury, its charter be not forthwith taken away, the State may refuse to renew it. As to the law of distribution, that operates when a person dies intestate. But though a corporation cannot die, yet the individuals to whom its property belongs will die; and their bank property, equally with their other property, becomes liable to the law of distribution.

One gentleman has imagined, that if Congress have and exercise the power of erecting corporations, it will operate as a monopoly; and may, in the end, destroy all the powers belonging to the individual States. But there is here no ground for alarm. The act of Congress which established the Bank of the United States did not end

these chiefly Englishmen, there is danger of a foreign influence in the country, and that such an influence has been manifest. This, sir, appears to be an extraordinary remark. In what has this influence been manifested? Has the Government, have individuals, been in any degree restrained in the expression of their resentments against Great Britain—or in adopting any measure deemed advisable towards that country?

One of the injurious consequences of destroying the Bank of the United States has been stated to be, the withdrawing of seven millions of dollars from the active capital of the United States, and transmitting it to Europe, where that portion of the bank stock is owned. To this it has been answered, by the opposers of the bank, that these millions will not be withdrawn, but transferred from the United States' Bank to banks of the several States. How then, sir, shall we get rid of that dangerous influence of foreign stockholders which the same gentlemen urge as a reason for not renewing the charter of the Bank of the United States? Sir, it is well known that money in Europe is less valuable than in the United States: That moneyed men there are glad to loan their money at an interest of five per cent. or less, while in these States the legal interest is six per cent. And a multitude of our citizens find their account in employing that foreign capital, paying an interest of six per cent., by which, in the course of trade, they gain ten, fifteen, or twenty per cent.; that foreign capital, in the hands of our merchants, has resembled the five and the ten talents, wherewith they have gained other five and other ten talents.

The distresses which will follow the dissolution of the Bank of the United States, especially in the great commercial cities, have been forcibly described in the plain testimonies of the committee of mechanics and manufacturers from Philadelphia—a committee selected wholly from the democratic party; distresses which were sufficient to move a heart of stone. And why should this bank be dissolved? It has been said that the State banks are competent to all the necessary operations of the general bank. If the contrary had not been shown, it might be answered, that the Bank of the United States was incorporated when there were only three banks in the United States: one in Philadelphia, one in New York, and one in Boston. These were inadequate to the necessities and accommodation of the General Government and of the citizens. To supply this deficiency, it was necessary to erect the National Bank; and the dignity, honor, good faith, and credit of the United States stand pledged for

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United States, and at an advance of forty-five per cent.; so that, for every hundred dollars laid out by the Government in the purchase of bank shares, the United States received of these foreigners one hundred and forty-five dollars. And how was it possible for these foreigners to conceive the Government capable of destroying the work of its own hands, and of reducing their property to one hundred dollars a share; for which, but eight years before, they had paid the same Government one hundred and forty-five dollars?

In limiting the duration of the charters of banks to twenty years, no wise Government ever contemplated their destruction at the end of that term. Known to be useful institutions, the proprietors have well founded claims to their continuance, which the public good also requires. But, in the course of twenty years, some inconveniences may be experienced which ought to be remedied, and some improvements discovered which ought to be adopted. Besides, being profitable to the proprietors, they can well afford, once in twenty years, to give to the Government considerable sums of money in acknowledgment for the benefits derived from the acts of incorporation.

But, sir, in respect to the English stockholders in the Bank of the United States, (and the foreign stockholders are chiefly Englishmen,) we are under special obligations by the treaty with Great Britain in 1794. The tenth article being permanent, is still in force, and in these words:

"Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated; it being unjust and impolitic that debts and engagements, contracted and made by individuals having confidence in each other, and in their respective Governments, should ever be destroyed or impaired by national authority on account of national differences and discontents."

Sir, this is the very time when the equitable obligation of this treaty (and as a matter entitled to consideration in equity I introduce it) applies with force. We now have national differences with Great Britain, and a stock of discontents sufficiently strong and extensive. By "destroying" the Bank of the United States, (and to refuse to renew its charter is to destroy it,) we essentially "impair" the "engagements," not of individuals only of the one nation with individuals of the other, but the "engagements" of our Government itself with some of those individuals. When the Barings purchased of our Government

made to the Barings of three hundred and ninety-nine thousand and six hundred dollars, which they lose.

Sir, I have no personal interest in the Bank of the United States. I am no stockholder; I have not the means of being one. Nor is the branch at Boston of equal import to the citizens of Massachusetts, with the bank itself and its branches to the inhabitants and commercial cities of other States; although the withdrawing of seven or eight hundred thousand dollars from the banking capital of Boston would undoubtedly produce some serious inconveniences. But, sir, I consider the Bank of the United States, with its branches, of immense importance to the citizens of the United States, and a necessary instrument in the hands of the Government, in the management of our great national concerns. I shall, therefore, give my vote for the renewal of its charter.

Mr. BRENT.—Mr. President, having been prevented from finishing the remarks which I had intended to make on the subject under discussion when I last had the honor to address this body, from the late hour of the day to which it was detained, I will avail myself of this opportunity to make a few desultory observations, which the want of time prevented me from heretofore submitting to your consideration. I formerly remarked, that many gentlemen had avowed that the principal cause that induced them to vote against this bill was the large portion of the stock of the Bank of the United States which was held by foreigners, which caused a foreign influence to exist in this country, which was incompatible with its safety; and that, after the termination of this bank, they were willing to join in the creation of another in which our own citizens only would be interested. I insisted, that if it was desirable to get rid of foreign stockholders, (which I did not believe,) this could not be effected by the destruction of that bank, for the reasons I then had the honor to suggest. I will here add one or more additional reasons why I entertain this opinion. If foreigners can employ their capital here to greater advantage than in their own country, it will be impossible to prevent them from subscribing to the shares of the new bank you create. If you propose to do so by prohibiting them from being stockholders, the law will be avoided by the subscription being made in the name of our own citizens, who will hold it for foreigners; or, even if the shares should be wholly taken by our own citizens, they will afterwards sell to foreigners; so that the same foreign influence exists, (if such is the effect of stock being held by foreigners.) Nor, sir, is this apprehended

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dressed to those only who are so very apprehensive of the dangerous influence which the investment of foreign capital here produces. For myself, I entertain no such fears; and for the reasons I have heretofore had the honor of stating, do very much question whether it is not most advantageous that foreigners should hold extensively the stock of our banks.

Some gentlemen are anxious for the dissolution of the bank, because they are of opinion that banks of every kind and under every modification are injurious. Perhaps they may be so. But does the destruction of this bank remove or diminish the evil society is to suffer from the existence of banks? If this bank is dissolved, the State banks will exist, and new ones be created to fill up the vacuum of bank circulating paper which is produced by the dissolution of this bank. If the community is to be oppressed with such institutions as banks to the same extent, whether or not there exists a National Bank, is it not better to have a National Bank than to put the Government to the necessity of carrying on its fiscal arrangements by the co-operation of State banks, which are in no respect under its control?

Among other reasons urged by the honorable gentleman from Maryland why there would be no inconvenience attending the dissolution of the Bank of the United States, indeed why there would almost be an advantage from such a measure—he insists there is at this time about \$20,000,000 due our merchants from those of England, and such was the deranged state of the commercial resources in that country, that our merchants could not now obtain payment of their British debts, but that on the dissolution of the Bank of the United States this seven millions of stock which was held by foreigners would be applied in part payment to our merchants of the debt due to them from the British—so that this money would not go out of the country, but would be immediately paid to our merchants and go to that extent to the increase of their resources.

Now, Mr. President, it appears to me, notwithstanding the high respect I entertain for the honorable gentleman's mercantile and political knowledge; that in this instance his opinion is not accurate. Either the British merchants that are indebted to ours are solvent or otherwise. If the first, they can pay our merchants the \$20,000,000 they owe them in the present state of things; if they are not solvent, is it to be believed that the stockholders, after receiving money from the bank to the amount of their stock, will, with this money, purchase bills which will be protested for non-payment? For such must be the result if the

lates to this difficulty, the dissolution of the present bank has no operation. If these seven millions are not invested in State bank stock, and good bills cannot be obtained to transmit it, as is clearly deducible from the statement of the gentleman from Maryland, then it must go in actual specie. An honorable gentleman from Massachusetts, of great and unquestionable mercantile information, has supposed there is not in the United States more than ten million of dollars in specie. If by the dissolution of the bank seven of these ten millions are to be exported from our country, will it not be attended with serious consequences, more especially since it has already been discovered that the quantity of the precious metals in the United States has for some years past been diminishing to such an extent that it has been thought by several important that Congress should take some steps to guard against the continuance of this evil? Another reason which might induce the holders of this stock, when the amount is paid off, to transport the specie instead of purchasing bills, is the great and increasing difference in value between the actual value of the same nominal amount of paper and specie in England. In the remarks which I heretofore had the honor to submit to the Senate, I suggested that it was more than probable that the dissolution of the Bank of the United States might seriously affect our revenue. In addition to the reasons then insisted on as leading to this conclusion, permit me, Mr. President, to remark, that if at the same moment you diminish the circulating medium of the nation (which to a certain extent is effected by destroying the Bank of the United States) and call upon your merchants immediately to pay fourteen millions of dollars, the amount of the debt they owe the banks, and at the same time to pay twelve millions to the Government, which is the amount of the bonded revenue, at a period when our commerce has been struggling for many years with the accumulated difficulties produced by spoliations, by embargo and non-intercourse laws—I say, Mr. President, under such circumstances, is it unreasonable to entertain some apprehension that our merchants, finding themselves unable to surmount all the difficulties with which they are surrounded, will in their choice of difficulties pursue the common dictates of prudence, and choose the least? Is it not probable that they will in the first instance take every step to secure their bank endorsers by settling their debts with the bank and leave the Government to bring suit on their revenue bonds? Such an event is the more to be deprecated, as this is, of all others, a period

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called, money-shaving. In making this observation, Mr. President, it was not my intention to reflect in the most distant manner on the president or any of the directors of that bank. I know not the name of any one gentleman in the direction. For all that I know, or have heard, the affairs of that bank are as ably and as honorably conducted as those of any bank in the United States or elsewhere. The fact which I stated was one which I suppose to be an unavoidable result when you go into the banking system and do not create a banking capital adequate to the wants of society. If you establish a bank with an inadequate capital, favorites go into the bank, get the money out of it, and apply it to usurious purposes; it is no reflection on a bank to say that it has its favorites. When more applications are made or more good paper offered than can be accommodated, a selection must be made, and some applicants remain unaccommodated, who will be compelled to give usurious interest to those who have been accommodated for the very money which this accommodation has supplied them with. My honorable colleague is of opinion that the Bank of Richmond has a capital of sufficient extent, and that all who deserve accommodations there can obtain them. I can only say that I have repeatedly heard a very different statement in Richmond and elsewhere. Another fact, too, I beg leave to mention. I am well acquainted with a very intelligent officer of the branch bank at Petersburg, who has informed me that almost always more good paper is offered to the board of directors than could be accommodated, from the limited extent of their banking capital; and it would seem an extraordinary phenomenon, that when Richmond and Petersburg are only twenty-five miles distant there should be a redundancy of banking capital at the former and such a deficiency at the latter.

I now, Mr. President, approach the discussion of a question which excites with me more sensibility than is produced by any consideration connected with the subject now deliberated on. It is principally with a view to investigate this delicate and interesting question that I have been induced at the present hour to solicit the attention of this honorable body. We are told that this question concerning the rechartering of the Bank of the United States is a party question, and from the vociferous and earnest reiteration of this assertion, it is evident that this invidious inference is intended to be derived from it—to wit: that at the first establishment of the Bank of the United States it was contested on Constitutional grounds and that its favorers or its op-

justice of this assertion as it relates to the matter of fact, at the first establishment of the Bank of the United States; and next, as to the honorable and generous inference which these magnanimous asserters attempt to derive from it.

[Mr. S. SMITH wholly denied that he had ever called this a party question or viewed it in this light]

Mr. BRENT said that he had never heard the honorable gentleman make such an assertion, but he had been informed it was attributed to him. The honorable gentleman's declaration is, however, perfectly satisfactory to me; I am satisfied that he is incapable of making so invidious and unfounded an accusation; I am too well acquainted with that honorable gentleman's good sense and liberality. He will therefore be so good as not to consider any remarks I shall make on the particular question that I am now investigating as applying to him, but to others who act with him as to the general and ultimate fate of the bill under consideration. That among the great mass of people in some sections of the Union, particularly the State I represent, this measure establishing the Bank of the United States was taken up as a party question, may be admitted; but that it was viewed in this light in either House of that Congress which passed the law; that the votes which were given either affirmatively or otherwise were the test to ascertain who was of the Republican and who of the Federal party, is an assertion destitute of all foundation; for whoever will examine the yeas and nays of both Houses of Congress will find some of our most distinguished Republican patriots voting for the bill, while others equally eminent and zealous in the Federal ranks will be found in hostility to it. Sir, the Journals of Congress, testimony derived from solemn and unquestionable records, a species of evidence which the laws of our country and the practice of our courts in the gradation of the different species of testimony places in the highest station and considers as of the most imposing authority, demonstrate that the assertion that the question concerning the establishment of the Bank of the United States in the first instance was entirely a party question, is destitute of all foundation; that an assertion so susceptible of refutation by testimony so irresistible should have been made, is evidence to me of the unjustifiable length to which some gentlemen will permit their zeal to transport them. Nay, Mr. President, let me call your attention to the only member, as I believe, of this honorable body who was a member of Congress when the law establishing a Bank of the United States took place.

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Administration, who by repeated acts recognised the legality and constitutionality of this institution? Shall we say that he and they have apostatized from the Republican cause? Do the presumptuous and daring assertors pretend to impose upon us a belief that, during a period which we have hitherto supposed was the proudest triumph of republicanism, those of the dominant party had apostatized from the Republican cause? Are we to believe that, during the Administration of Mr. Jefferson, the great apostle of republicanism, one with whose name republicanism has been supposed to be identified—are we to believe that he has apostatized from his political party? Are there any so presumptuous as to imagine they can impose upon the public mind or upon this honorable body so monstrous, so absurd a belief? Can you be induced to select that moment which has hitherto been imagined most auspicious to Republican principles as the one when above all others there was a total apostacy from them? No, sir, every effort is vain which is made to impose upon us so irrational a belief. On the contrary hand, we will account for the conduct of Mr. Jefferson and the Republican majorities in Congress during his Administration, when they sanctioned by repeated laws the constitutionality of the Bank of the United States, by the considerations I proceed to enumerate. Whatever might have been the abstract opinion of Mr. Jefferson respecting the constitutionality of the bank on its first institution, it is now immaterial to inquire. He saw, when he came into the Presidency, that this was in its origin not a party question; but that the Journals of Congress would evince that on the vote which first gave a sanction to this measure all party distinction was confounded; that it was one of those questions, which, when first agitated, was calculated to produce a diversity of opinion among men of the purest intentions and of the most luminous understandings; that it was one of those doubtful questions which, when once settled by precedent, should never again be agitated; that this measure had been sanctioned, after the fullest deliberation had been bestowed upon it; and that we had so incorporated this bank establishment with our fiscal and other Governmental arrangements, that it could not at that time be put down without impairing the public credit, and without being like (in various other points of view) to be productive of very serious and numerous calamities to the community. From all these various considerations, Mr. Jefferson, when he came into the Administration, as also the majority of Congress during that period, considered the question respecting the Bank of the United States as a

question now contend,) every step that was taken to sanction this unconstitutional measure, was inflicting a new wound on the Constitution, and a violation of the sacred oaths they had taken to support it. To say that it was done for the support of public faith, because the law incorporating the bank had made a contract with individuals, is irrational and fallacious, because no unconstitutional law can pledge the faith of Government. An unconstitutional law incorporating a body of men can give them no legal existence which can be binding on a subsequent legislature. It is, as was well observed by my colleague, to enter into a contract with an idiot or married woman. The contract is *ipso facto* void. If an unconstitutional law cannot pledge the faith of Government, or a subsequent legislature; nay more, if it is incumbent on a subsequent legislature to repeal such unconstitutional law; then the law establishing the Bank of the United States, if it is of this description, (that is, evidently unconstitutional,) imposed no other obligation on Mr. Jefferson and his Republican majority than immediately to repeal it, and to restore to its original purity that Constitution they had sworn to support; but when the very opposite conduct is pursued, we must presume it was done from an idea that the constitutionality of the bank in its origin was one of those questionable principles which might create doubt between individuals of all parties, and on which men of the best understanding might pause and hesitate; but being once determined on, was to be considered as an adjudicated case, which the repose of society made it proper should never again be drawn into discussion. This, sir, I think, is a justifiable inference. Are we not then warranted in saying, that the assertion that this is a party question, with all the bearings it is intended to have, is destitute of all foundation? That the law concerning the Bank of the United States was not in its origin a party question, is demonstrated by the Journals of Congress. Whenever this measure was agitated during the Administration of Mr. Jefferson, it was not taken up as a party question, because all parties gave it their concurrent support. It remains to be inquired whether on the present occasion the bill under your consideration is to be viewed as a party question. In order to ascertain the character of a question, that is, whether it is a party one or not, it is first necessary to ascertain who are the different individuals that constitute the different parties, and how these individuals stand in relation to the question to be decided on. If all or almost all of each political sect are arranged, one for, the other against the measure,

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unless supported by higher authority than that which is derived from the arrogance of one section of this divided party. When I view the Journals of the House of Representatives, and cast my eyes over the yeas and nays on this question, as decided there some days past, and find some of the most zealous and distinguished Republicans in the affirmative; when I reflect on the number and great weight of character of the Republican members of this honorable body who concur with me in opinion that it is proper the re-incorporation of the bank should prevail, I consider it as the height of arrogance, and the most baseless of all unfounded pretensions, in those of the Republican party who are opposed to this measure, to call this a party question, to identify themselves exclusively with the Republican party, and to insinuate that such Republicans as vote for this bill have abandoned their political principles. By what authority can those Republican gentlemen, who oppose this bill, appropriate exclusively to themselves the character of Republicans; are there not, among those of the Republicans who are in favor of this measure, men of as great weight of character as those who are opposed to them; men, who can offer as distinguished and as proud and elevated pretensions for the zeal, the diligence, the fidelity, and the fortitude they displayed in the Republican cause during the period of its adversity, as any this country contains? Who, sir, in the hour of difficulty, at that period which tried men's souls, when republicanism meant more than a name, and its advocates were stigmatized as factious demagogues and upbraided with every odious epithet—who, sir, at this inauspicious moment occupied a more eminent and distinguished station in the Republican ranks than the present Secretary of the Treasury, who is the first to recommend this measure? And is Albert Gallatin, one of those who pre-eminently contributed to form the Atlas, on whose shoulders the fate of Republicanism rested, at the moment when it was surrounded with such numerous and ferocious assailants—is he not a Republican? Nay, Mr. President, are there none in this body of the veteran politicians who contributed to form that Spartan band who so nobly defended the Republican cause, when it exposed its advocates to every species of obloquy and political persecution—are there none of that description in this body that mean to vote for this bill? It will, with justice, not be denied. Mr. President, who are the characters who have proclaimed this to be a party question? Does my colleague, who was inferior in zeal and efficiency

that this exclusive claim to Republicanism is insisted on, both within and without our doors. It is made by characters that at the period of Republican adversity were not known in the Councils of our nation, or were perhaps in most instances boys at school; and are these unfledged, fair-weather politicians, in these halcyon days of Republicanism, to attribute to themselves the exclusive monopoly of Republican principles, and stigmatize as apostates those veteran politicians to whose persecutions and exertions the triumph and preservation of Republican principles can alone be attributed? These, sir, are modest pretensions, and the public will duly appreciate them when they learn the source from whence they come and the characters to whom they are to be applied. If to be of an opinion that there is a Constitutional power in the General Government to establish a National Bank, is an apostacy from the Republican cause, then Mr. Jefferson and the two Houses of Congress during his Administration, who considered this a settled and an adjudicated point, and in repeated instances legislated on this principle, and passed laws recognising the constitutionality of such an institution—then, sir, Mr. Jefferson and the majority of the two Houses of Congress during his Administration have apostatized, as also has Albert Gallatin, who, relying on the score of precedent, has considered this as an adjudicated question, and in his report recommended its adoption—he also has apostatized from the Republican party. Mr. President, I remember to have heard an instance mentioned when a gloomy and ferocious fanatic was pronouncing eternal damnation on all who died without the pale of his church—that a more benevolent and liberal person who heard him, in order to obviate such monstrous doctrine, enumerated a great many of the most amiable of their common acquaintance and even relatives whom the hand of death had taken from them, that were not of the same religious tenets with this fanatic, and interrogated him what had become of each of these amiable and dear friends and relations? The fanatic replied, they were all in hell; to which the interrogator rejoined that he also would go to hell, for he was sure if the information he had just received was true he should find better company there than in any other region he could repair to. With the same desire to get in good company, if Mr. Jefferson and the majorities of Congress, during his Administration, and Albert Gallatin, have apostatized from the Republican party, I also am content to be an apostate. I am sure I know of no political sect that have manifested opinions so congenial

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charter this bank. I understand the honorable member from Maryland has candidly and honorably avowed this opinion—many others are known to entertain the same sentiments, (though they will not acknowledge them with the same candor,) who have and will vote against this bill. To those who entertain this sentiment how can this be a party question? The only incident which gives it the character of a party question is, the opinion that a such a law is Constitutional or otherwise; and a determination to vote in the affirmative or negative, as that opinion shall dictate. Now, to such gentlemen as believe the law Constitutional and yet vote against it, it cannot be a party question. Those who are in this situation, and endeavor to overthrow the bill by the prejudices they may create against it, by affecting to call it a party question, though secretly and in their own minds they entertain no such belief—such gentlemen, Mr. President, as act in this manner, fight under false colors.

Mr. President, it is painful for any gentleman when addressing this House to speak of himself, and to make his past political conduct the theme of his observations; but, in an instance like this, when insinuations are made so calculated to excite the most poignant sensibility—when a charge of inconsistency and dereliction of former political principles is made, it is pardonable to take a review of our past political conduct, for the purpose of repelling charges which create emotions proportioned to the ardor and fidelity with which we are conscious of cherishing those principles which we are accused of having abandoned. During the most arduous conflicts of the Republican party, at a time when it was borne down by domineering and tyrannical majorities, although I occupied no prominent station, it certainly was not my fortune to repose upon a bed of roses. It was at this most inauspicious period, as it respected the fortune of the party to which I was attached, that I first acquired a seat in the other branch of the National Legislature. The four years during which I retained it may be considered as the very time, when, above any other, party intolerance was carried to the greatest excess; when a Republican was almost hunted down in the streets of Philadelphia, where Congress then sat; when the Republican members were reduced in Congress on great and critical questions, which served most precisely to designate the two parties, to a very inconsiderable body; when, to be called a Republican, was, in the estimation of the dominant party, to promulgate outlawry against you in the code of humanity, and to cut you off from almost all the chari-

conduct and that of the party with which I thought and acted. Let the Journals of the House of Representatives during this alarming and eventful crisis be examined, and let the recorded votes of that body be resorted to in order to ascertain whether I was inferior in promptitude, fidelity, and ardor, for the Republican cause, to any member of the Republican party. During the whole of this period I was suffering under the most painful state of ill health, yet such was my anxiety to show my disapprobation of the ruinous measures pursued by the then dominant and infatuated party, that I occupied my seat in Congress, in very many instances, when, if I had attended to my own ease and health, I should have confined myself to the bed; and I challenge the most minute and accurate investigator to point out one instance where any measures were taken in Congress calculated to interest party feeling, when I was absent from my post, or failed to attest by my vote the sincerity of my devotion to the Republican cause. Under these circumstances, I had flattered myself that I had some humble pretensions to the public confidence, when I professed my early and continued devotion to the principles of republicanism, but I discover that I am mistaken, and that a new order of fortunate politicians have come into existence in the present propitious hours of republicanism, and have so exclusively engrossed the whole of this precious commodity, that they will not permit their elder order of political men, to whose exertions it is indebted for its very existence, to have one particle of it. If this new created order of patriots will banish me, and all who think with me, on this occasion, from the Republican ranks, they cannot deprive us of this consolation, that, in the state of exile and denunciation, they place us in company at least as respectable as that from which we are driven. If to be associated in the same political class with the late President, with the majorities of Congress during his Administration, and with the Secretary of the Treasury, in contradistinction to this new order of exclusive Republicans, is the result of these denunciations, I am willing to encounter their consequences.

Mr. President, if I and those of the Republican party who act with me on the present occasion have apostatized from our former political principles, I can say with truth, so far as the charge respects myself, that the motive by which I am actuated must not only be disinterested but very different from that which generally operates on the human mind. In the most gloomy hour of Republican adversity, during the severest denunciations and persecutions which it experienced;

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Republican triumph, when to be associated with that party, is the best passport to all the honors and offices of our country, when I am elected to a seat in this very elevated and honorable body by the vote of a Republican Legislature of one of the most uniform and unanimously Republican States in the Union; in such a crisis, and in such a state of things, I have abandoned the Republican party! If the charge be just, I can only repeat, that I must be actuated by motives very different from those which generally operate on the human bosom. No consideration of pecuniary aggrandizement could have had any operation on me in relation to the subject under consideration; any other than a wish to advance the general happiness of society, for I never had a bank share in any bank whatever, nor have I ever had any negotiation with, or requested or obtained a loan of one penny from the Bank of the United States or any of its branches. I must here remark, if this abandonment and tergiversation of political principles is justly attributable to me. I am not conscious of the motive which produced it. Whether I shall be considered faithful to Republican principles, my country must determine; and to this tribunal I cheerfully appeal. But whether, in the vote I am about to give, I shall evince uniformity of political principles, is not a question that I will submit as a matter of doubt for the decision of any one. It is a matter of fact, susceptible of immediate and conclusive demonstration. The first time I was a candidate for a seat in the House of Representatives, a gentleman who was a competitor with me for that station, published a lengthy address to the freeholders of the district, which we each wished to represent, which was, in some measure, a profession of political faith, and seemed to call on me to make public a similar exposition of my political sentiments. The question concerning the Bank of the United States was then a topic more generally adverted to, than it has been for some years past; it was, of course, dilated on in the address of my competitor, which imposed an obligation on me to express my sentiments on this subject, in the answer which I published to this address. I have no copy of my answer in my possession, nor have I seen it for several years; but I have no doubt but some copies of it are to be found, and if they can be found, it will be seen that I therein waive all considerations respecting the original constitutionality of the bank, and, after making some remarks respecting it, which I do not now recollect, conclude with observing, that however inexpedient at first, it cannot now be touched without im-

if the sentiments it contained consigned me in the public estimation to the Republican party, if I acted and shall act in my political career in conformity to these sentiments, I have some latent suspicions that I should have some pretensions to the character of a Republican, if it were not discovered that a new order of patriots has lately arisen, which has exclusively appropriated to itself every Republican attribute, and will not permit any of its benign influence to animate the bosoms of those who have preceded them in the theatre of public life, though it is exclusively owing to the exertions of the latter, that its genial and hallowed flame has not been entirely extinguished. From the exposition I have just made, whatever may be the political sect with which I and many others of my more illustrious political associates are arrayed, I hope it will at least be admitted, that I have acted with consistency and in conformity with my earliest professions. I am conscious of possessing but little political merit, and my anxiety to have credit for what little I do possess, is augmented from my consciousness of the scantiness of the general stock. When we possess but little, that little is our all, and its value is proportionally enhanced from this consideration. Consistency of political opinion, and steady adherence to those tenets with which I had commenced my political life, was one of those humble recommendations for public confidence to which I flattered myself I could make some just pretensions; nor will the review I have just taken of the commencement and progress of my political life, diminish these pretensions. Whether this new order of exclusive Republicans, who have made their appearance upon the theatre of public life more recently than it was my fortune to do, shall succeed in excluding from the Republican ranks the late President of the United States and the majority of Congress, as also the Secretary of the Treasury and all the Republican members of Congress who voted for the bill under consideration; I say, Mr. President, whether this is effected or not, in either case the charge of apostacy or dereliction of political principles, cannot apply to me, because I now act in strict conformity with the profession of political faith which I made at the commencement of my public life (in relation to the Government of the United States.) With whatever political sect I may be associated in consequence of the affirmative vote I shall give to the bill now deliberated on, from the considerations already enumerated, I shall at least stand absolved from all imputations of inconsistency, insincerity, or apostacy. My candor cannot be impeached; I

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more firmly to convince me of their accuracy and superlative excellence, and that the preservation of those principles, in their utmost purity, is best calculated to preserve the liberty and promote the general welfare of the nation.

WEDNESDAY, February 20.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I lay before Congress a return of the militia of the United States, as received by the Department of War, from the several States and Territories.

JAMES MADISON.

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Ordered, That the Message and documents lie on the table.

Mr. CUTTS, from the committee, reported the bill making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes, correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass, and that the title thereof be "An act making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes."

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act establishing navy hospitals," reported it without amendment.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act for the relief of Peter Audrain," reported it without amendment.

The bill, entitled "An act for the relief of Richard Terwin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory;" was read the third time, and passed.

The bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory," was read the third time, and passed.

The bill entitled, "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed," was read the third time; and, on motion of Mr. CRAWFORD, postponed to the first Monday in December next.

The PRESIDENT communicated a resolution of the Legislature of the State of Kentucky, approving the amendment to the Constitution respecting titles of nobility; which was read, and,

Mr. CRAWFORD said he regretted extremely, that at so late an hour, he was constrained to throw himself upon the indulgence of the Senate, especially as the subject was so much exhausted by the able and animated discussions which had for so many days attracted their attention. Before I enter upon the few remarks, which I feel it my duty to make in reply to the numerous comments which have been made upon the observations which I had the honor to submit to the consideration of the Senate, at the commencement of this discussion, permit me, sir, to acknowledge the liberality and indulgence with which those observations have been generally treated. In the course of the few observations to which I intend to confine myself, it shall be my endeavor to exercise that indulgence towards others which has been extended to me. The gentleman from Kentucky (Mr. CLAY) complains of the committee, because they have listened to the representations of two delegations from the city of Philadelphia who presented memorials to the Senate, who referred them to the committee; and because the committee have, in his opinion, given an adventitious importance to their representations, by the minuteness and by the pomp and parade with which they have been detailed to the Senate. It will be recollected that the committee did not seek the post which has been assigned them by the Senate, nor did they desert it after it was assigned to them. The object of referring petitions to committees is to collect that information which the Senate ought to have before it acts, and which in its collective capacity it cannot obtain. It has always been the practice of committees to permit the petitioners to be present at their meetings, to make such explanations, and to give such information touching the subject of their petition, as they think connected with it. It is the duty of committees to detail to the Senate the information which they collect, to enable the members to take a full view of the subject upon which they are called upon to act. The committee in the present case has done all this, and it has done nothing more. Had it pursued a different course it would have justly subjected itself to the animadversions of the Senate. To the information collected by the committee from these delegations, and laid before the Senate, my friend from Maryland (Mr. SMITH) has opposed a statement of facts, and his opinion founded upon those facts. As the situation and talents of that gentleman entitle his statements and opinions to great weight; as it is more than probable that the votes of several members will ultimately rest upon the weight of his authority, my honorable

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rectness of his statements, and in the accuracy of his opinions; but if, in the course of my observations, I shall prove incontestably that he is mistaken in some of his statements and opinions, it will teach the Senate the necessity of weighing the remainder of them with great circumspection. If I shall be able to show that he is mistaken in a case, the evidence of which is matter of record, that circumstance alone will induce the Senate to reject all idea of receiving his statements and opinions with implicit confidence. But, sir, before I proceed further in my observations, permit me to notice an expression which fell from the gentleman from Tennessee on my right, (Mr. WHITESIDE.) I understood that gentleman to say, that those Republicans who thought the law incorporating the bank was Constitutional, had been guilty of apostasy. I hope I misunderstood the gentleman; if I am mistaken it will afford me great pleasure to be corrected, because the declaration made a very strong impression upon my mind, and excited the most unpleasant sensations. [Mr. W. explained. He said an impression had been made upon his mind that the bank charter was unconstitutional, but that he had never examined the subject minutely until it had become his duty to do it. That that examination had convinced him that it was unconstitutional, and that those Republicans who now supported the renewal must have apostatized.] Then, sir, I say that this is language which no gentleman ought to use towards any member of this honorable body; and, sir, it is language which no gentleman shall without the walls of the Senate use to me with impunity. [Mr. W. explained by saying that he did not say that gentlemen had apostatized, but that he had only said in his opinion they had apostatized.] I wish the gentleman had been able to make a satisfactory explanation of his unwarrantable declaration. What right has he to make his opinion of the Constitution the test of other men's republicanism? By what authority does he erect his opinion as the standard of republican orthodoxy? as the standard by which the republicanism of other gentlemen is to be tried? The gentleman has mistaken his standard in the Republican party. I disclaim all authority in a case of this kind, and more especially the authority of the gentleman from Tennessee.

Mr. President, the honorable gentleman from Maryland has declared, that the act incorporating the Bank of the United States was in its origin a party question. [Mr. SMITH explained: He did not say it was a party question, but that it had given rise to party.] If I have mistaken

tions which I made when I had the honor of addressing the Senate at the opening of this discussion, I attempted to show that the idea of party, as now known, did not then exist in the United States. That the parties then known were those who were the friends of the Federal Constitution, and those who were opposed to it. Nothing which I have heard advanced upon this subject in reply to my observations has made the slightest impression upon my mind against the correctness of the opinion which I then advanced. I understood the gentleman from Maryland to say, that the Congress which passed the bill to incorporate the bank was capriciously apportioned, and consisted of sixty-five members, and that of that number only thirty-nine voted for it. That if the members had been apportioned as the Constitution directs, upon the principles of population, in his opinion the bill never would have been passed. Sir, let us examine the correctness of this opinion: Every member present but one, from the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, voted for the bill, together with two from the State of Maryland, two from the State of North Carolina, and one from the State of South Carolina. The eight States who voted unanimously for the bank, one only excepted, upon the apportionment under the first enumeration, give a net gain of twenty members, while the other few States, most of whom voted against the bank, give a net gain of sixteen members. Thus, sir, if we may judge of the conduct of members in a geographical point of view, there can be no doubt that the friends of the bank would have been considerably increased by a correct apportionment. The vote in the House of Representatives on the final passage of the bill was thirty-nine to twenty. In the Senate the yeas and nays were taken on two questions during its pendency there. Upon the first the yeas were sixteen, the nays six. Upon the motion to strike out the twelfth section, which restrains the right of Congress to create any other bank during the existence of that about to be created, the yeas were five, and the nays eighteen. The opinion then is wholly incorrect, and yet the evidence upon which this opinion ought to have been formed was matter of record. Sir, the gentleman from Maryland has said that this bank has been mischievous in its consequences, and that wherever it has established a branch it has immediately produced a necessity for creating other banks. I would ask what has created the necessity of creating banks in New Hampshire, Vermont, Rhode Island, Connecticut, New

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sylvania, and several other States, to create so many banks within a few months past? Is it owing to the mischievous effects of the Bank of the United States? Sir, the facts I have stated show conclusively that the cause assigned by my honorable friend from Maryland cannot be the one which has produced this multiplication of banks. Some other cause must be sought for, and in my opinion a more rational one is ready at hand. The effects of the bank and of its branches wherever established, upon the prosperity of the people, and of the commerce of the place, removed the long-rooted objections which existed against banks, and hence their great increase in all the States.

The gentleman from Maryland has stated several cases in which the State banks, and the banks of this Territory have accommodated the Government, where the United States had refused. The cases stated prove nothing, and ought to have no influence with this Government in establishing a permanent system of revenue. If the State and Territorial banks have upon several occasions received the bills of other State banks to accommodate the Government, it was because it suited their convenience at the time. It was a mere temporary transaction, and forms an exception to the general rule. The charter of no bank in the United States compels them to take the paper of other banks, and whether they do receive them or not will depend upon contingent circumstances, or upon whim and caprice. No reliance, therefore, ought to be placed upon the duration of any regulation which is not enforced by their charters. The gentleman from Maryland thinks that the United States will have the same influence over the State banks that it has had, and will have over that of the United States. If he is correct as to the extent of that influence, his conclusion may be correctly drawn. But, sir, is it true that the National Government has no other influence over this bank than that which can be produced by withdrawing of its deposits? If it is so, then it must be admitted that the United States will have the same influence over the State banks that they will have over one of their own creation, because they can as easily withdraw their deposits from the one as the other. But, sir, the United States have an influence over the Bank of the United States, which is wholly independent of, and unconnected with, the right of withdrawing their deposits from its vaults. The bank is dependent on them for its existence. By renewing the charter for short periods of time

or two before the time at which their charters were to expire, and the State Legislature should direct them to hold the deposits of public moneys against the demand of the National Government, what course would they pursue under such circumstances? Sir, the case which I have stated is not a mere possible case. The history of several of the large influential States proves that this state of hostility, which I have supposed, is not an imaginary one. Make yourselves dependent upon the State banks for the collection and transmission of your revenue, and that opposition, which has but seldom happened, will become more frequent. Their disposition to control the operations of the National Government will increase with every increase of the means of annoyance, which the folly and improvidence of Congress may throw into their hands. For whose benefit, sir, is the Government to strip itself of this right, so essential for the due administration of its finances? Is it for the benefit of the great mass of the American people? No; not one in an hundred of them have any interest in the State banks. They feel no interest in the question; their true interest is more effectually subverted by the operations of the Bank of the United States than it can possibly be by the State banks. This bank affords them a portable currency which is of equal value in every part of the United States, while the credit and currency of the State banks is local.

Mr. President, the honorable gentleman from Maryland (Mr. SMITH) says that the Bank of the United States does not facilitate the collection of the revenue. If I understood the gentleman from Massachusetts (Mr. LLOYD) and the gentleman from Maryland correctly, human imagination cannot devise a system so peculiarly calculated to insure the speedy collection of your revenue, as that which is furnished by banks. Sir, I know nothing of the details of the banking system—I never was inside of a bank except two or three times in the branch bank which has been established in this city; but I understood the gentleman from Massachusetts to say, that when a revenue bond even of fifty dollars was deposited in the bank for collection, if it was not discharged when due, that the obligor was refused all further accommodation in that bank, and that if his accommodations amounted to \$100,000, he was called upon to discharge his notes as they became due, the right to renew them being forfeited by this act of default. I understood the gentleman from Maryland to say, that whenever any person was known to be in default at any bank,

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revenue bonds in the bank, the want of punctuality in a single case towards the Government shuts the door of every bank to which the defaulter had before had access, and also of every other bank of the city in which his commercial transactions have been carried on. And yet we are seriously told that the operations of the bank have no influence upon the prompt and secure collection of the national revenue.

It is impossible to resist the conviction that the prompt and secure collection of our revenue is principally owing to the influence of the bank. But, sir, the bank has another direct influence upon the collection of your revenue. By the rules established in the bank at Philadelphia, every person whose bond to the Government is deposited there, has a right, upon getting an additional endorser, to claim a discount for half of the amount of his bond, and the part so discounted is immediately carried to the credit of the United States, and the bank takes upon itself the risk of the ultimate collection. In this way, sir, one-half of the bond is collected at the sole risk of the bank, without any possibility of loss on the part of Government. And yet, sir, it is contended that the bank has nothing to do with the collection of the public revenue. The gentleman from Maryland says that the scarcity of money, and the alarm and dismay which the delegation of mechanics had represented as existing in Philadelphia, could not be the effect of the contraction of discounts by the Bank of the United States, because that bank, as well as the State banks, are going on with their ordinary discounts. This is true, but the gentleman from Maryland has forgotten that this delegation stated that the bank, upon the rejection of their memorial by the House of Representatives, had contracted their discounts, and that a correspondent contraction had taken place in the discounts of the State banks which had produced the pressure; and that that pressure had spread alarm and dismay through the city. That before they left the city, the directors of the Bank of the United States had come to an understanding with the directors of the State banks, all of whom had determined to resume and continue their ordinary discounts until the last hour. Notwithstanding the banks had resumed their ordinary discounts, the panic which had been produced did not cease, and the scarcity of money, and the distrust which had taken place, still continued to exist in Philadelphia.

The gentleman from Maryland admits expressly that the transmission of your public money for the payment of the Army and Navy must be effected through the agency of banks, but contends that that object can be effected as well by

Congress had to rely upon the States for the execution of the measures which it had previously devised and adopted.

This opinion is substantially correct; for the Constitutional dependence of the present Government of the United States upon those of the States is confined to its organization, and not to the execution of its Constitutional powers after it is organized. The gentleman from Tennessee (Mr. WHITESIDE) has said, that we argue this question as though Congress was wholly independent of the State governments. When, sir, I had the honor of submitting my reasons to the Senate upon a former day, I expressly stated the cases in which the National Government was dependent upon those of the States, and proved, by referring to the Constitution itself, that in every case of that kind the Constitution imposed upon the State the highest obligation to perform the acts, for which the Government of the United States was dependent upon them. The Constitution having defined the cases in which this Government shall be dependent upon the State government, I did not hesitate to declare it to be unwise and improvident to increase that dependence by legislative acts, when we were unable to impose any obligation on the States to perform the act. The same gentleman has said that the objection to employ the State banks, was the result of a distrust in the State governments rather than in the State banks; and that this distrust was unreasonable, because the State governments were composed of the same description of men who composed the National Government. If this be called argument, and is entitled to any weight, it is a two-edged sword, which cuts both ways. It equally proves the unreasonableness of the distrust which is felt against the Government of the United States in relation to the exercise of the right to incorporate a bank. But, sir, to all this the most satisfactory answer is, that I will trust no man to do for me what I can do so much better for myself. Why trust any man when there is no necessity or reason for trusting him?

The gentleman from Maryland, in speaking of the means which have been resorted to, to procure the renewal of the charter, says that we have not procured memorials to be presented to Congress praying that the charter might not be renewed—we have not procured pamphlets to be written, published, and laid upon the tables of members, proving the unconstitutionality and inutility of the bank—we have not imposed upon the credulity of honest mechanics and manufacturers, and by that means procured delegations to be sent to pray for the rejection of the bank

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the possibility of his making such an insinuation. [Mr. SMITH explained, by saying, I exclude every idea of such an insinuation.] Sir, I will tell the honorable gentleman from Maryland, what has been done by those who are opposed to the renewal of the charter. I do not mean the members of the Senate who are opposed to it, but those who have attempted to inflame public opinion upon this question. Letters, sir, have been written from this place to induce the State Legislatures to instruct their members to oppose the renewal of the charter of the bank. I will ask the honorable gentleman from Maryland whether he does not know that letters have been written for that purpose?

The gentleman from Maryland has said, and I am extremely sorry that he has, that the Bank of the United States had their agents in this city for two sessions, intriguing with members of Congress to obtain a renewal of their charter. I can assure that gentleman that I have had as little to do with the agents of the bank as he has had. If, sir, I was disposed to retort upon those who are opposed to the renewal of the charter, I would ask, if they have not seen published in the democratic papers of Pennsylvania, Maryland, and Virginia, extracts of letters said to be written in the City of Washington, charging the members of Congress who are in favor of it with being bribed and corrupted, and with being disposed to sell the sovereignty of the nation to British capitalists? Have they not seen, in the same papers, conversations detailed with great minuteness, which it is pretended have passed between members of Congress, calculated to excite public odium and indignation against the friends of the bill now under consideration? Sir, I will not for a moment indulge an idea that these letters have been written or these conversations detailed by any member of this body. The idea that such has been the fact is too humiliating, too degrading, not only to this honorable body, but to human nature itself; to be entertained but for one moment. And yet, sir, the author of a charge, as base as it is false, against my honorable friend from Kentucky (Mr. POPE) has, day after day, occupied a seat in a gallery of the Senate, to which no person has a right of access, but by an introduction of one of the members of this body. Sir, the highway robber, when compared with the infamous fabricator of this base attempt to assassinate the reputation of this honorable member, becomes a virtuous and estimable character. Such, sir, has been the warfare which has been waged against the renewal of the charter. Denunciations and

apostacy which has been denounced against me by the gentleman from Tennessee (Mr. WHITESIDE) while I am pursuing the course which has been approved by a Gerry, a Langdon, and a Washington; men whom the wise and virtuous have delighted to honor? No! while treading in the footsteps of these well-tried patriots and enlightened statesmen, I will advance, with a firm, undeviating step, unappalled by the howling of party rage, more terrific than the yell of the aboriginal savage.

The gentlemen from Maryland (Mr. SMITH) has said that he has understood that a proposition was made in the Federal Convention to vest Congress with power to create corporations generally and without limitation. Had I been a member of that Convention, I should most certainly have voted against the proposition, because it would have been unreasonable. Why should such a power have been delegated? Not certainly as necessary to execute the delegated powers, because they are very limited—a general power to create corporations would have enabled Congress to have created them *ad libitum*, where there was no possible relation between them and any one of the delegated powers. The vote upon the bill incorporating the bank proves that if such a proposition had been submitted, it must have been rejected, under a conviction that the power to create corporations is incident to such of the general powers as might require an act of incorporation completely to execute them, and fairly vested by the Constitution in Congress; because ten of the members of that Convention were in Congress, and voted for that bill—because General WASHINGTON signed that bill, because the only member of that Convention now in Congress voted for the bill, and is now in favor of renewing the charter; and because there were but eight members of that Convention in Congress who voted against it.

Mr. President, I will now proceed to examine the objections which have been offered to the construction which I have given to several clauses of the Constitution. In the observations which I made upon this part of the question when I was up before, I endeavored to prove that every construction that had been given to this instrument, upon the idea of its being perfect, was likely to be erroneous. The gentleman from Virginia (Mr. GILES) and the gentleman from Tennessee (Mr. WHITESIDE) still view it as the model of perfection. They are certainly at liberty still to entertain that opinion. Every man has a right to erect his idol in this land of liberty, and to fall down and worship it, according to the dictates of

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right to erect light-houses had been exercised as incidental to the power to regulate commerce. It seems, however, that I am mistaken, and that this right is incidental to that clause which gives Congress the right to exercise exclusive legislation in certain places. The clause reads in the following words:

"To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," &c.

Now, says my friend from Tennessee, this clause gives the right to erect dockyards; and as dockyards must be on the seacoast, therefore, Congress has the right to erect light-houses, because they must also be on the seacoast. This argument is extremely logical, nay, syllogistical, in form, but it is extremely illogical in substance. The conclusion drawn from the premises, is as necessary, as though I were to say, that because two and two makes four, therefore five and five makes twelve. The conclusion in the latter case is as necessary as in the former. But my honorable friend from Virginia (Mr. GILES) derives it from the authority given in this clause, to erect other needful buildings. But the question recurs, needful for what? Why certainly for the purpose before specified. What are they? Forts, magazines, arsenals, and dockyards. If this clause gives any authority to erect forts, magazines, arsenals, and dockyards, the other needful buildings spoken of must be needful for these specified purposes. I should suppose that no man, who spends only a few days in this city, can be at a loss to determine what is comprehended under the term "other needful buildings." Let him go to the dockyard, nicknamed a navy yard in this city, and he will there find a little town of "other needful buildings" in the words of the Constitution. But, sir, I deny that this clause of the Constitution expressly gives any right, but that of exercising exclusive legislation in the places to be accepted or purchased for the purpose therein specified. The right to erect forts, magazines, and arsenals, is fairly incidental to the right of declaring war, and of raising armies; and the right to erect dockyards is fairly incidental to the right of providing and maintaining a navy. But if for the sake of argument I should admit that the right to erect forts, &c. is given in this clause, how can it be proved that the right

to create banks, I then stated, and I again explicitly state, that it is with reluctance that I have felt it my duty to make any inquiry into the Constitutional right of the State governments to incorporate banks. The State Legislatures ought to have recollected the Spanish proverb, which says, that those who live in glass houses ought not to throw stones. Before they undertook to question the Constitutional authority of Congress, they ought to have thoroughly examined the foundation upon which their own right rested. The honorable gentleman from Virginia (Mr. GILES) says that the construction which I have given to that part of the Constitution which prohibits the States from emitting bills of credit, would apply equally to promissory notes given by one individual to another under the laws of a State, as to a bank bill. Permit me to inquire of that gentleman whether he ever saw a law authorizing one man to give another his promissory note? He may search the pandects of Justinian; he may turn over the leaves of the musty volumes written upon the common law, from the days of Bracton and Fleta down to the present day, and his search will be in vain. For the right to make contracts, the right to give promissory notes, is antecedent to, and independent of all municipal law. The gentleman will find laws and decisions in abundance, regulating the effect of endorsements and other collateral circumstances, and prescribing the manner of enforcing the payment of promissory notes, but he will never find a law giving the right to execute the promissory note. But it is said that the bills of credit, which the States are prohibited from emitting, must be bills of credit emitted on the credit of the State. If this distinction should be well founded, many of the State banks are still subject to the charge of unconstitutionality, because in many of them the States are directly interested, and wherever that is the case, their bank bills are bills of credit emitted on the credit of the State. But the correctness of this distinction may well be denied, because the restriction is as general as it could possibly be made. But it is said that this restriction applies only to bills of credit which are made a legal tender in the payment of debts; that bills of credit, designated in the Constitution, are *ex vi termini* a legal tender. For the correctness of this exposition, an appeal is made to the restriction which immediately follows it, which restrains the right of the States to make anything but gold and silver a legal tender in the payment of debts. It appears to me that the latter restriction excludes most emphatically the construction contended for. If the States are prohibited from

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"thou shalt do no murder," should have added, but, if you will murder, you shall not rob and strike the dead. The construction of the restraint upon the right to make anything but gold or silver a tender, is that they shall not make specific articles, as tobacco or cotton, a tender, as was the case in some of the States.

But it is said that the history of the States will show that the bills of credit specified in the Constitution were those only which were a legal tender in the payment of debts. Let us examine this point, according to the rule of construction applied to another clause in the Constitution by a large majority of both Houses of Congress during the present session. Another clause in the Constitution gives Congress the power to admit new States into the Union under two limitations: 1st. That no new State shall be formed within the limits of any State without the consent of the State; and, 2d. That no new State should be formed by the junction of two or more States without the consent of such States, and also of Congress. These limitations prove that the formation of new States, within the limits of the United States, was in view of the Convention at the time that this clause was adopted; and the subsequent clause, which gives Congress the power to make rules for the government of its Territories, proves that these Territories were at that moment under consideration. In addition to these reasons for believing that the framers of the Constitution had no idea of forming new States, beyond the limits of the United States, those who were opposed to the admission of Orleans as a State contended that the history of the United States proves that the power to erect new States and admit them into the Union was intended to be confined to new States within the limits of the United States, at the formation of the Constitution, and that a different construction would disparage the rights of the original States, and, of course, be a violation of the Constitution. What reply did the majority of Congress give to this train of reasoning? They said that the right to admit new States cannot be subject to any other limitations or restrictions than those which are contained in the clause which gives the right, and as there is no restriction upon the right to erect new States without the then limits of the United States, Congress have an unlimited right to erect and admit them into the Union. Let us apply the same rule of construction to the restriction of the right of the States to emit bills of credit. The restriction is a general one; it has no exceptions; and every attempt to make exceptions ought to be repelled

its value. It takes from the States the right to coin money and to emit bills of credit. Why give to Congress the right to coin money and regulate its value? Because the interest of the nation requires that the current coin of the nation should be uniform both as to its species and value. If this is the true reason why the right of coining money and fixing its value was given to Congress, does not the right to issue that which is to be the representative of this coin; which, in fact, is to usurp its place; which is to be the real currency of the nation, necessarily belong to Congress? Does not the right to create a bank, which shall issue this representative of money, come within the same reason? I think it does.

My friend from Kentucky (Mr. CLAY) contends that the right to create a bank will prove destructive to the rights of the States, because if Congress can incorporate a bank, it may, under some pretext or other, create other corporations and authorize them to hold real and personal estate, which shall be exempt from the right of taxation by the States. That if this is admitted, and he believes it generally is admitted, that the States cannot tax bank stock, in this way the States may be deprived of the power of taxation. Sir, I am one of those who do not admit the fact. [Mr. CLAY said that he did not admit it neither, though he had understood that the bank held that doctrine.] I am extremely glad that we think alike, at least upon this collateral point. The right of the States to impose taxes is unlimited by the Constitution of the United States; they, therefore, can tax every species of property which is within their legislative jurisdiction. The unlimited power of the States to impose taxes is, in all probability, the true cause of giving to Congress the power of exclusive legislation over all places which should be selected for the erection of forts, magazines, arsenals, and dock-yards, because public property to a great amount would necessarily be collected in these places; and but for the vesting the right of legislation in Congress to the exclusion of the States, all this property would have been subject to taxation, which would have produced great embarrassment. It has been said, not indeed upon this floor, but by men for whose opinions I entertain a very high respect, that the right of the States to tax bank stock is inconsistent with the right of Congress to create a bank. That the right of taxation destroys the right to create, because the States, by immoderate taxation, could drive the bank out of their limits. All arguments drawn from the abuse of a right ought to be received with great

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banks totally destroyed. The advocates of this doctrine are also advocates for State banks. If the right of taxation by the States proves the unconstitutionality of the Bank of the United States, the right of Congress to tax equally proves the unconstitutionality of the State banks.

To the fervid imagination of my friend from Kentucky, (Mr. CLAY,) this power to create a bank appears to be more terrific than was the lever of Archimedes to the frightened imagination of the Romans, when they beheld their galleys suddenly lifted up and whirled about in the air, and in a moment plunged into the bosom of the ocean. Are these apprehensions founded in reason, or are they the chimeras of a fervid and perturbed imagination? What limitation does the Constitution contain upon the power to lay and collect taxes, imposts, duties, and excises? None but that they shall be uniform; which is no limitation of the amount which they can lay and collect. What limitation does it contain upon the power to raise and support armies? None other than that appropriations shall not be made for a longer term than two years. What restriction is to be found in it upon the right to provide and maintain a navy? None. What upon the right to declare war and make peace? None, none. Thus the Constitution gives to the Government of the United States unlimited power over your purses—unlimited power to raise armies and provide navies—unlimited power to make war and peace, and you are alarmed; you are terrified at the power to create a bank to aid it in the management of its fiscal operations. Sir, nothing short of my most profound respect for honorable gentlemen, who have frightened themselves with this bugbear, could induce me to treat the subject seriously. Gentlemen have said that they are alarmed at the exercise of this power, and I am bound to believe them. Sir, after giving Congress the right to make war and peace; the right to impose taxes, imposts, duties, and excises, *ad libitum*; the right to raise and support armies without restriction as to number or term of service; the right to provide and maintain a navy without a limitation, I cannot bring myself to tremble at the exercise of a power incidental to only one of these tremendous grants of power. The gentleman from Kentucky (Mr. CLAY) contends that we have attempted to give a degree of weight and force to what we are pleased to call precedents, to which they would not be entitled in those tribunals from which we derive all of our ideas of precedents. I am happy to find that my friend from Virginia (Mr. GILES) agrees with me in opinion upon this subject

in point; that the issue upon which the decision is made must be the same as that in which it is adduced as authority. To this I most heartily agree, and will rely upon it, to show that the cases which we urged as precedents are entitled to the greatest weight. In all cases between individuals, they are supposed to understand their own interests and their own cases. The plaintiff is supposed to understand the point upon which the decision of his case must depend. The defendant is supposed to understand the ground of his defence. They make up an issue, either of fact or of law. It is this issue which is to be tried. Any declaration or expression of the judge which is not confined to the issue, is, of course, entitled to no weight. Well, sir, what is the nature of the precedents upon which we rely? 1st. That a republican Congress, in the year 1804, passed a law extending the operations of this unconstitutional institution, as they contend, into territories to which they had no right to extend them by their charter. In the year 1807, they passed a law punishing the forging of their bills. Now, sir, my friend from Tennessee (Mr. ANDERSON) says, that those who passed the bank bill were afraid to venture that far; they were afraid to pass a law to punish the counterfeiting of their bills; but, in the year 1798, in the plenitude of federal domination, they passed a law to punish counterfeiting the bills of the bank. It is certainly true, that the Federal party did pass this bill in that year, but it is equally true, that the Republican party in the plenitude of their power did pass a bill of the same kind in the year eighteen hundred and seven. Well, sir, what is the issue which is tendered in the passage of every bill by the Congress of the United States. First, that the Constitution gives them the right to pass the bill; and, second, that it is expedient. The first, sir, is the most important issue, made up between the National Legislature and the people of the United States, in passing bills by which their rights are to be protected or violated. How, then, are we told that these laws passed *sub silentio*—that the Constitutional right of Congress to pass such a law never was discussed, or even thought of? Sir, suppose the gentleman from Kentucky had constituted me his attorney to do a particular act for him, and I had performed an act under that power which had no connexion with the one which he had authorized me to perform, and when charged with this violation of my trust, I should gravely say, really I never examined the power, but took it for granted that I had the right—that, in fact, I had done it *sub silentio*—what would you say? From Kentucky

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acted, that I had done it *sub silentio*? Sir, this way of disposing of these formal voluntary acts of the Government, sanctioning the legality and constitutionality of the bank charter, will not be accepted. Some more happy expedient must be devised. But, sir, we are told, that because the Constitution contains within itself the principles of amendment, that if any doubts existed on this subject, it ought to have been amended. Whenever the States have conceived their rights to have been affected by any construction which has been given to the Constitution, they have shown that they know how to obtain relief. When the Supreme Court of the United States undertook to support the doctrine that an individual could sue a State, they did not hesitate to interfere, and the Constitution was amended. When an embargo was laid, in the year 1807, those States who were most inimical to that measure did not hesitate to offer an amendment to the Constitution. Whenever a construction is given to the Constitution by a legitimate and competent authority, those who are opposed to that construction ought to propose amendments, and not those who are satisfied with it. If the construction given to the Constitution by the creation of the bank was thought by the Republican party to be vicious, then indeed have they been guilty of the grossest act of negligence. It was in their power, and most assuredly it was their duty to have amended the Constitution, either by expressly giving or taking away the power. It was their duty to have settled the question forever. Suppose, sir, you now decide that it is unconstitutional for Congress to incorporate a bank; this will not settle the Constitutional question. It will unsettle and render uncertain what has been settled for twenty years. You say you have not the right to incorporate a bank. Ten years hence other men will come into power, and say they have the right, and will exercise that right for twenty years. The bank will then have been Constitutional for twenty years, unconstitutional for ten years, and Constitutional for twenty more. Are we to go on in this unsettled, miserable, halting manner? God forbid! Sir, I have closed the observations which I thought it my duty to make in reply to the comments which have been made upon the remarks which I had previously submitted to the consideration of this honorable body. If, sir, I preferred my political standing in the State which I have the honor to represent (and, sir, I do not profess to have any out of it) to the public welfare, I should rejoice at the success of the motion which has been made by the honorable gentleman

European nations; the immense losses which our commerce has sustained by the operation of the decrees and orders of the tyrants of the land and the ocean, imperiously admonish us to beware of making untried and dangerous experiments. By supporting this institution, the tottering credit of the commercial class of your citizens may be upheld, until the storm shall have passed over. By overturning this great moneyed institution at the present crisis, you may draw down to undistinguished ruin thousands of your unfortunate and unoffending fellow-citizens.

[We have to regret the omission of two speeches in the course of the preceding debate, which are wanting to make it perfectly complete—that of Mr. Whiteside, the lowness of whose voice rendered it impossible for the reporter to follow him, and that of Mr. Anderson, the copy of the report of which was mislaid before it was committed to the press—both speeches in opposition to the renewal of the charter.]

The question was then taken on striking out the first section of the bill, (equivalent to a rejection,) when it appeared that there were for the motion 17, against it 17, as follows:

YEAS—Messrs. Anderson, Campbell, Clay, Cutts, Franklin, Gaillard, German, Giles, Gregg, Lambert, Leib, Mathewson, Reed, Robinson, Smith of Maryland, Whiteside, and Worthington.

NAYS—Messrs. Bayard, Bradley, Brent, Champlin, Condit, Crawford, Dana, Gilman, Goodrich, Horsey, Lloyd, Pickering, Pope, Smith of New York, Tait, Taylor, and Turner.

The Senate being equally divided, it became the duty of the VICE PRESIDENT to decide the question by his vote; previously to which he made the following observations:

GENTLEMEN: As the subject on which I am called upon to decide has excited great sensibility, I must solicit the indulgence of the Senate while I briefly state the reasons which influence my judgment.

Permit me to observe, that the question to be decided does not depend simply upon the right of Congress to establish under any modification a bank, but upon their power to establish a National Bank, as contemplated by this bill. In other words, can they create a body politic and corporate, not constituting a part of the Government, nor otherwise responsible to it but by forfeiture of charter, and bestow on its members privileges, immunities, and exemptions not recognised by the laws of the States, nor enjoyed by the citizens generally? It cannot be doubted but that Congress may pass all necessary and proper laws for carrying into execution the powers specifically granted to the Government, or to any department or officer thereof: but, in doing so, the means must be suited and subordinate to the end. The power to create corporations is not expressly granted: it is a high attri-

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ings of the United States are now published and conducted: *And provided also*, That the said convention shall provide by an ordinance, irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare, that they forever disclaim all right or title to the waste or unappropriated lands, lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land, sold by Congress, shall be and remain exempt from any tax, laid by the order or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof; and that the lands belonging to persons residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands the property of the United States. And that the river Mississippi and the navigable rivers and waters leading into the same, or into the Gulf of Mexico, shall be common highways and for ever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, impost, or duty therefor.

SEC. 5. *And be it further enacted*, That in case the convention shall declare its assent, in behalf of the people of the said Territory, to the adoption of the Constitution of the United States, and shall form a constitution and State government for the people of the said Territory of Orleans, the said convention, as soon thereafter as may be, is hereby required to cause to be transmitted to Congress the instrument by which its assent to the Constitution of the United States is thus given and declared, and also a true and attested copy of such constitution or frame of State government, as shall be formed and provided by said convention, and if the same shall not be disapproved by Congress, the said State shall be admitted into the Union, upon the same footing with the original States.

WEDNESDAY, January 16.

The bill to change the name of Lewis Grant, to that of Lewis Grant Davidson, was read twice, and ordered to be engrossed, and read the third time to-morrow.

Mr. MITCHELL presented a petition of the President and Directors of the Merchants' Bank in the city of New York, praying the renewal of the charter of the United States' Bank; which was read, and referred to the Committee of the Whole on the bill for the renewal of the said charter.

The bill from the Senate, entitled "An act to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown in the Territory of Michigan," was read twice, and committed to the

of the several branches; and a statement of the stock held by foreigners, and in what countries, and of the stock held by citizens, and in what States and Territories; and, also, the amount of specie, according to the last returns, in the vaults of the bank, distinguishing the part which belongs to the bank, the portion belonging to individuals, and to the United States.

The bill sent from the Senate, entitled "An act to incorporate the Bank of Washington," was read twice, and committed to the Committee of the Whole last mentioned.

The bill sent from the Senate, entitled "An act to incorporate the Bank of Potomac," was read twice, and committed to the Committee of the Whole last mentioned.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Ebenezer Rollins;" in which bill they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill from the Senate for the relief of the heirs of Major General Anthony Wayne. [The bill authorizes a resettlement of accounts of said deceased, supposed to have been too hastily adjusted.] Mr. MILNOR stated the object of the bill with great precision, minutely detailing many sums of money due General Wayne at the time of his decease, with which his heirs had not been credited in the settlement of his accounts. Mr. WRIGHT also spoke in favor of the bill. The bill was ordered to a third reading, and was read a third time and passed without opposition.

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The House resolved itself into a Committee of the Whole on the bill to renew the charter of the Bank of the United States.

Mr. BURWELL moved to strike out the first section.

I have made this motion, sir, said Mr. B., because it allows the greatest latitude of discussion upon the important points which are preliminary to the examination of the details. It tries the principle of the bill, and may save much tedious and useless labor. Should a majority decide in favor of the Bank of the United States, as an honest man, I will aid in forming a system best adapted to the state of the country, and most subservient to the purposes of such an institution. The gentleman from Connecticut (Mr. MOSELEY) has done justice to my conduct, and the fairness with which the subject has been treated. I have been anxious to present the question fairly, not from any doubt or indecision as to the course I should pursue, but from its magnitude and the

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The remarks I shall make are intended to show that Congress possesses no power to incorporate a bank; to show its effect on the Government, and to satisfy the Committee that the exercise of the power, even if possessed, is inexpedient. While, sir, I feel the most ardent desire to consult the convenience of the Government and promote the prosperity of the community in general, I have not lost sight of the limits within which I am restrained by the Constitution of the United States and considerations of sound policy. It is my most deliberate conviction that the Constitution of the country gives no authority to Congress to incorporate a bank and endow the stockholders with chartered immunities; and even if its dissolution should produce ruin to the merchants, and, what is of equal importance, embarrassment to the Government, they would not be paramount to the sacred obligation of supporting the Constitution; though I am persuaded the dreadful evils which have been predicted from the annihilation of the bank will soon vanish, and that no material shock will be produced by that cause. The construction which the Constitution has received by the various persons who have at different times administered it, has been rigid or liberal according to the confidence in the General or State governments. The unqualified extent given to its general powers, and the inclusion of incidental powers, as flowing from and belonging to particular enumerated grants, have constituted the essential points of difference among those who have divided upon the principles of the Constitution. This has been the case not only in the exercise of authority where the right was questionable, but in cases where the right was undeniable, tending by its operation to increase the weight of the General Government. In giving to the Constitution that construction which sound policy requires, and a just regard to the harmony of the States and the perpetuation of their Union dictates, I cannot find any part of it authorizing the exercise of a power which, from its nature, is obnoxious, its tendency alarming, and its influence in the hands of those who manage its concerns irresistible. The power to establish a bank cannot be deduced from the general phrases "to provide for the common defence and general welfare," because they merely announce the object for which the General Government was instituted. The only means by which this object is to be attained are specifically enumerated in the Constitution, and if they are not ample, it is a defect which Congress are not competent to supply. I think this inference the stronger, inasmuch as those means were granted

siderations might have operated. They might have supposed the power already vested. But, it is incumbent on those who can place faith in an interpretation so repugnant to the cautious and guarded phraseology of the instrument to demonstrate it. If the right to incorporate exists, it is a general grant of power, equally applicable to all the objects of incorporation, and cannot be assumed as a means to carry into effect any particular grant of authority. To my mind, it is much more natural to suppose a power to create monopolies had been surrendered, to quiet the fears of those who saw in the Constitution the germ which would sooner or later palsify the vitals of the State authority. If the general phrases are not explained in the manner just mentioned, and powers so extensive and important are derived from them, it would be ridiculous to consider the jurisdiction of Congress restricted; they would confer equal authority to establish monopolies in all the various branches of individual industry and commercial enterprise. Sir, I will conclude this part of the subject by reminding you how essential it is, when we are giving an interpretation to the Constitution, to which the States are parties, to assume only what clearly belongs to us. Moderation will inspire confidence, selfishness will excite disgust and suspicion.

The parts of the Constitution which bear any analogy to this subject, are

1st. Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare, &c.

2d. To borrow money on the credit of the United States.

3d. To regulate commerce with foreign nations, and among the several States, and with Indian tribes. And

4th. To make all laws which shall be necessary and proper to carry the foregoing powers, and all other powers vested by the Constitution in the General Government, into effect.

It will not be denied that, if the establishment of a bank comes within the meaning of the power to lay and collect taxes, to pay the debts of the United States, and to regulate commerce, or is necessary and proper to carry the foregoing powers into effect, it would be a fair subject for legislation by Congress. But can any one pretend that a bank would be a mode contemplated by the Constitution to lay and collect taxes on the people for the purpose of raising revenue? Would it comport with that wise principle of uniformity, and those guarded restrictions against unequal

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the Treasury was Constitutional, would destroy our equal system of government, and substitute a capricious despotism. It would revive the exploded doctrine of free gifts, benevolences, and that shameful train of extortions practised by the old Governments of Europe. Does it fall within the power to pay the debts of the United States? This clause relates entirely to the application of the funds after they have been accumulated; it is in conformity with that article which pledges the public faith for debts which had been contracted, as well as those which might be created in pursuance of the authority to borrow money upon the faith of the United States. If the power to incorporate a bank grew out of the obligation to pay the debts of the United States, its charter should be so worded as to cease whenever they were extinguished; and it would be no longer for Congress to fix a definite period for its expiration. If the right of incorporation was ever meant to be given, it would most naturally follow from the regulation of commerce; yet, no one has contended Congress could create insurance companies within the States. Those who contend the bank is Constitutional, consider it as necessary and proper in collecting the revenue. That it may be an useful instrument, I do not deny. It forms depositories convenient to the Government; but, you should recollect depositories equally safe and convenient, can be procured without being purchased at the expense of exorbitant and invidious privileges to a particular class in the community. I apprehend the Constitution means something extremely different when it empowers the General Government to collect taxes; it relates exclusively to the authority thus given to Congress of employing compulsory process in coercing the payment of taxes; it enables Congress to create, within the jurisdiction of the States, officers of the revenue, and through them, to exercise over the property of the citizens a concurrent jurisdiction, from which they otherwise would be precluded, and from which they had been precluded before the adoption of the Constitution; it enables them to impose penalties and forfeitures, and to inflict punishment for resistance to their authority. But, sir, admit for a moment the bank may be formed to collect the revenue, ought it not be exclusively used for that object? Whence the power to make it an instrument of commerce? Why invest it with a capital immense in amount, and sovereign in its control over the external and internal commerce of the country? Sir, I must again call your attention to the limited nature of our Government; we must administer it as we

gress. The nature of incorporations is so clearly a distinct class of political power, that, before they can be converted into means incidental to an object without the jurisdiction of the General Government, they must be shown to be absolutely necessary. Permit me to ask, how has it been ascertained that a bank is necessary to the operations of the Government? Has the experiment been tried? Upon a question involving a breach of the Constitution, it would be safer to be guided by experience than conjecture.

Sir, I am well aware that I can add nothing new upon the Constitutional points. The subject was more thoroughly examined in 1791, and more ably elucidated than any other since the adoption of the Government. The celebrated speech of Mr. MADISON, to which I ascribe my conviction, has been recently presented to us in the newspapers, and gentlemen must be familiar with it. I cannot give additional weight to the arguments, but I thought it proper to call the attention of the Committee to that part of the subject by the remarks I have made.

I said, sir, it must be shown that the bank is necessary to the operations of the Government—without its aid our fiscal concerns cannot be managed. So far from subscribing to the necessity of the bank, I believe the revenue would be equally safe in the State banks, and could be distributed with inconsiderable difficulty. The revenue received in most of the States is nearly equal to the expenditure within them, and when a deficiency occurred in any one, it could be supplied by arrangements with the different banks, by transportation, or inland bills of exchange, in the manner that the public engagements are fulfilled abroad. I will venture to assert the Secretary of the Treasury will find no difficulty in contracting with individuals and corporate institutions, upon the most ample security, to transfer the public revenue upon terms equally advantageous to the United States. Among the several States commercial intercourse is great, and daily increasing; the constant traffic which the different portions of the country maintain with one another, will give facility to the operations of the Government, and obviate the obstacles which are anticipated; the very commerce which enables the Treasury to remit with ease immense sums to every part of Europe is the result of this interchange among the States, and insures equal facility at home. Where, then, is the necessity for this bank? The accommodation of the bank to the Government in times of emergency, and the use of its resources to support public credit, have been urged as motives for its establishment: how far such considerations

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its commercial functions must cease. The relief which sudden and temporary embarrassments require, can, at all times, be administered by the State banks, and, therefore, supersedes the necessity of aid from this bank. Whenever, by disasters, the ordinary sources of supply are exhausted, or the unavoidable objects of expenditure exceed the revenue, a more copious and permanent aliment will be found in the wealth and capital of the citizens than by loans from banks. Instead of diverting the active and productive capital from useful channels, the sluggish and inert mass will be drawn forth in its aid, to support public credit and cherish private enterprise. But, sir, is it prudent to rely upon an institution that may refuse you assistance? What will be the influence of such an institution on the Government, and the country at large? It cannot escape your recollection that the establishment of the Bank of the United States was the origin of a system which assumed as its basis the enlargement of the national jurisdiction. Whether the principles of expediency to which it owes its birth be regarded, or the overweening influence it established over the moneyed institutions and merchants of the States, the charge, to say the least, is plausible. The close and intimate connexion between the Government and bank—the dependence of the former for loans, and the latter for public deposits, have given the Executive branch its full share of influence and odium—shows incontestably it was created to augment the power of the General Government, and the Executive in particular. Yes, sir, it was the commencement of those political animosities which have poisoned the sources of social intercourse; it was the origin of that doctrine of constructive power which abrogates the Constitution and nullifies the restrictions imposed upon Congress. So long as it exists, the body politic will experience the agitations and convulsive throes of well grounded jealousy in the States.

Sir, in the administration of this Government two things alone are necessary to insure its durability. You must first avoid every measure which will produce uneasiness among the States, or, second, that will extend the jurisdiction of the United States Government to subjects purely local. I do not mean that the rightful authority of Congress is to be abandoned for fear of giving offence, but, whenever called on to take a step which will produce uneasiness, you should be perfectly satisfied the letter and spirit of the Constitution bear you out. Do not gentlemen perceive the tendency of this measure to involve us with the States upon delicate points? Has not the

sword in their behalf? While you have time, avoid a situation not less perilous than the most serious foreign war. Since the establishment of the bank, the States have created banks—their people have accumulated capital, and they will not tamely witness the perpetuation of an institution whose strength can at any moment overthrow whatever State bank they may mark for destruction. However paradoxical it may appear, I consider the General Government strengthened by narrowing its jurisdiction; it will produce disunion whenever they interfere with local concerns. The habits, local interests, and passions of this country vary, and no one is a competent judge of what will suit the feelings of the State out of which he lives. But, sir, there are general principles in which our feelings and interests are identified; there are subjects upon which we may safely act, and trust to the co-operation of every man and State in the Union. Does the bank affect the people locally? The answer is obvious: it not only undertakes to fix the amount of capital, but interferes with the rights of property most essentially—it may change the fundamental principles of State law as to the liability of property for debts, and the mode of recovering them. Let me caution you against the renewal of the charter; it is pregnant with the most baneful consequences to the tranquillity of the country. Is it not better to sacrifice this golden calf upon the altar of concord, restore confidence and harmony among individuals as well as States, and to reunite the lovers of the Constitution?

In the report of the Secretary of the Treasury, the convenience of obtaining loans from the bank is mentioned as an inducement to establish a National Bank. To me the abuse of this convenience is more dreaded than any other evil which will follow from the measure. Where have you seen a National Bank, connected with the Government, which has not ultimately ruined the circulating medium of the nation? It is a notorious fact that money has depreciated seriously, from the unlimited circulation of paper, and if the Government should be compelled, by necessity, to use the funds of the bank, they must permit the increased circulation of its paper, although its money capital remains stationary. In this situation the Government must tolerate an operation which will increase the evil of which we complain. The example of England is a salutary monition to us, and we ought to profit from it. In that country there was a time when the stability of the bank was a national phrase, "As good as the Bank of England." How is it now? The funds of the bank have been borrowed by

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floating and real property of the community: should an alarm exist, can these funds be converted into money to redeem its credit? Certainly not. Will it not be prudent to diminish the extent of this evil by putting down this bank which is the fountain from which the whole system flows? It is of little importance, as it regards the internal trade of a country, what constitutes the representation of property. Paper, iron, or anything else, which passes current, will answer every purpose of barter and trade; but, in its commerce abroad, it is indispensable that the circulating medium should be equally valuable and readily acknowledged among all commercial nations; otherwise, all the operations of commerce, carried on with money, will be abandoned or prosecuted under disadvantages equal to the difference in the value of the currency at home and abroad. In countries actively engaged in business, this branch of trade is not only great in amount, but by far the most profitable. How unwise, therefore, not only to substitute for the precious metals paper currency, whose value is confined to the United States, but to augment the quantity until it depreciates even among ourselves.

I cannot sufficiently express my apprehension at a state of things which exposes us to irreparable injury whenever a foreign nation shall interrupt our commerce, or my regret at the daily ascendancy of this fatal policy. In my opinion, sir, the true corrective will be applied, if the Government, instead of receiving the paper of a particular bank in payment for the revenue, shall require specie as the only tender. Such an operation would secure to the country its due proportion of the precious metals, would restrain within rational and useful limits the circulation of paper, would insure stability to the moneyed institutions, save the people from the dreadful scene of bank swindling which is exhibited, and restore the equality of trade with foreign nations, which depends upon the fixed value of the circulating medium. I am far from intimating that banks are useless, when established with a due regard to the actual wants of the country. Measured by that standard, they form the chief resource of industry, lubricate the wheels of commerce, and accelerate their motion—but the Constitution has wisely intrusted this measure to the States; they are the most competent judges. If the Bank of the United States tended to restrain the multiplication of banks, and the ruinous emission of paper, I acknowledge it would be a powerful argument in its favor—it would go far to satisfy me of its expediency. But, instead of producing this effect, we have seen them, like mushrooms in

of averting the storm. What has been the fact upon this subject? Have not the most shameful systems of bank swindling been practised? The State of Massachusetts found it necessary either to suppress her banks, or limit their discounts. They found, upon examining the vaults of the banks, the whole of them did not contain specie equal to the paper issued by a single one. Yes, sir, instead of finding a sound body, they found a corpse rotten and decayed; the specie had fled and the public were left without the prospect of remuneration. Have you forgotten the Bank of Rhode Island? This bank had issued notes to the amount of \$800,000 upon a capital of \$451. Will gentlemen tell me the Bank of the United States has checked, or will keep down, in future, similar impositions? I am justified in considering this bank instrumental in depreciating the currency of the country, and banishing its substantial capital.

There is no branch of industry more materially injured by the artificial state of credit, and the depreciated currency of the country, than manufactures. The precarious condition of commerce has naturally turned the public attention to this subject; and we may hope the time is not distant when the United States will furnish the articles of substantial utility for themselves. The war in Europe, by deranging the operations of the manufacturer, and the taxes with which his industry has been burdened, have conspired to give a vigorous impulse to them here. But, sir, we shall probably witness their destruction by the rapid depreciation of paper, which raises the price of labor, and impedes the accomplishment of this most desirable object. The exchange of labor between the inhabitants of America and the Old World, has always been disadvantageous. We have not only paid full profits upon the capital and labor employed in the production of what is consumed, but we have paid the taxes which the prodigal Governments of Europe have laid upon them.

Upon this subject a strong appeal has been made to our feelings; it has been said the dissolution of the bank will produce the most serious pressure in the community, and will devote numbers to ruin. I am confident no man would be more gratified than myself, to afford relief to those who may suffer, if I was not precluded by Constitutional difficulties. While I admit the sufferings of individuals will be great, I am equally convinced the picture is highly colored and the facts exaggerated.

The time when the charter expires has been known to every person; the presumption against its renewal strong. How can you therefore be

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[Mr. MACON called Mr. BURWELL to order for using the name of the President in debate.]

Sir, the violation of order has been inadvertently committed; his name was not used to produce any effect here, because I really am unacquainted with his present opinions, except as I infer them from his Speech in 1791; I cannot suppose he would use one set of arguments then, and act upon another now.

Under such circumstances, it would be criminal in this House to yield Constitutional objections, and surrender important considerations of policy, to shelter those who have shut their eyes to the law. The Legislature cannot resist with too much firmness such an appeal; it is placing them at the mercy of a few, and sacrificing the general good to the clamors or follies of the improvident.

It has been said that \$8,000,000 in specie will be required, from circulation, to meet the demands of the bank, and that the amount cannot be procured in the United States. I venture to assert, upon the statement furnished by the bank agents, the sum will not exceed \$2,500,000 over and above the specie in the vaults of the bank. After paying and settling with the community, the bank will owe to the stockholders \$10,400,000. If they retain the specie now in the vaults, amounting to \$5,000,000, the demand upon the community will be lessened to that extent; if it is paid out to meet the return of their notes in circulation, it passes into other banks, and will return to them; so that, in either case, it will constitute a fund to pay the stockholders, and reduce their demand to \$5,400,000; from this sum must be deducted \$500,000, the amount of real estate belonging to the corporation, \$2,750,000, loaned to the Government, and about \$300,000 in suit, leaving a balance not exceeding \$2,500,000. Will it be said that this sum cannot be raised in a country whose export of specie, for the last year, amounted to \$8,000,000? Will it be said that the system of banks has reduced us to this low ebb, and yet we are called upon to perpetuate the evil? From this view of the subject, it appears that the creditors of the bank will be compelled to raise \$7,500,000.

Can any gentlemen seriously believe that this sum will ruin the country? If, sir, we judge from the number of banks springing into existence in the different States, the conclusion is irresistible, that there is a redundancy of capital more than ample to accommodate all the debtors of the bank. Scarcely a single Legislature has separated without granting charters. You have this morning deposited in Committee of the

ment of the bank agents, the directors have contracted debts nearly or quite equal to the amount due them, and that they will find difficulty in meeting the claims against them. These claims will naturally be transferred to those who are indebted, or deposited in State banks, where they will constitute funds upon which accommodation can be extended. The moment you destroy the bank, the notes it has issued, to the amount of \$5,000,000, will return; the deposits, amounting to nearly eight millions and a half, will come into the market; these, added to the private capital which can be spared, will supply the means of sustaining the shock.

I feel confident the removal of public deposits will go far to remedy the evil. The loan obtained from the bank, and payable the 1st of January, will add to the facility of satisfying the claims of the bank. Even the funds of the institution itself will rapidly glide into channels of profit, and contribute to the object. Thus, sir, this omnipotent association, whose influence pervades the Continent; whose nod dispenses protection or ruin, like an angry cloud, will be disarmed by the conducting powers of the State banks; there will be no explosion. Its substance will be secreted, mixed with their juices, and strengthen the general system.

In the public discussions upon this subject, we have been told the quantity of specie has been reduced below the actual wants of trade, and that the portion of stock held by foreigners will be carried abroad in money. Those who endeavor to alarm us in this way, are either ignorant themselves, or they calculate largely upon our credulity. It is, sir, a melancholy fact, that specie has been almost banished from circulation by paper, and from the vaults of the banks by exportations abroad, in a commerce which does not replace it. It is equally true, that this bank has contributed more than any other to produce this deplorable result. But it is evident the exportation must be limited in amount, or the import of specie commensurate, if we do not continue the present system which threatens us with a currency exclusively paper.

As to the exportation of specie by the foreign stockholders, nothing can be more absurd. Have not the motives which induced them to invest their property in the United States been strengthened? Yes, sir, funds in every part of Europe are fluctuating and insecure; the grip of taxation has embraced them, and you must think worse of the judgment of these proprietors than I do, if you suppose they will quit a country whose institutions are safe, and whose property

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carry conviction to every man, unless he supposes money is worth more than this difference over the paper currency of the country. Although the exchange is in favor of Holland four per cent., it would be cheaper to lose that amount than pay fifteen or twenty per cent. insurance, &c., for the transportation of specie, subject to risk from British cruisers, and seizure from French rulers in port. No one will say that the Dutch have any motives to draw their funds from the United States.

After showing, I hope to your satisfaction, that specie cannot be remitted in the actual state of things, I will suppose foreign stockholders should transfer their capital, how would that affect this country? From what I have said, it appears that the one million held in Holland, and six millions in England, if withdrawn from the United States, would only be an exchange of funds with the American merchant, and would not affect the money in circulation. I confidently believe the present embarrassments of merchants arise from the spoliations of the belligerents, and principally from the accumulation of funds in England, which they cannot withdraw but at a great loss. For some time past shipments have been almost confined to England; the prices have been good, and the proceeds far above the demand for English merchandise; added to this, whenever shipments have been made elsewhere, the profitable purchases of bills have increased their funds in Great Britain.

The fact is clearly demonstrated from the state of exchange, which for the first time is greatly in our favor. If, then, the stockholders should remit their funds by bills of exchange, it would bring six millions into the market, and not only relieve the American merchant from the unfavorable state of exchange, but would at once furnish the means of meeting his engagements and relieving his embarrassments. It would be a loss of that much capital to the United States; but we can bear the loss, as is evident from the rapidity with which new capital is supplied to form new banks. Should they give a preference to moneyed institutions here the community would be equally relieved.

It may be asked, if foreign capital remains, shall we not be exposed to its influence? I do not, sir, object to the use of foreign capital by individuals, but I never will consent to organize it under the patronage of the Government; in the hands of an individual its influence is comparatively insignificant. Combined in the form of a National Bank it becomes truly formidable to the best interests of the nation; besides, I well

will be adopted which will force the merchants either to fail or to refuse payment. Such conduct on the part of the bank would be wantonly cruel and unjust, and would probably terminate in great losses. In the event of such a procedure the merchants would compel the bank to resort to the ordinary course for the recovery of debts, and under such circumstances I do not apprehend their credit would be affected with other banks. The alarming scarcity of specie, produced by the facility which the bank has furnished, to procure it for exportation, and speculations in bills sold by the agents of the British for the use of their troops in Canada and the West Indies, cannot be too strongly impressed on the mind of the Committee, or too soon stopped by the Government. It is true that a temporary inconvenience results from the latter mode of exportation, because it is soon brought back in return for provisions supplied by the Middle States. It must be known, sir, to you, why the import of specie, which nurtured the East India trade, has ceased since the revolution in Spanish America, which opened the direct trade to the English for supplies of British and East India manufactures, and the facility of shipping specie direct to Spain, without the intervention of bills of exchange obtained in this country on Europe; the supply of American produce to the Spanish colonies has never been more than sufficient to keep up the necessary quantity for our own use and for the India trade, to an extent limited by our own wants; hence the disadvantage of the paper system, which furnishes the means of prosecuting this trade after its utility is done away. Gentlemen will tell me this evil will correct itself, and that the merchants will not persist in a branch of business unprofitable for want of markets. I readily admit this position to be correct; but, before all those sanguine adventurers will be convinced, who are tempted by the accommodation of the bank, we shall be so far drained of our real capital, as to be incapable of sustaining public confidence in the stability of our money institutions. There is one effect from the extent to which the banking system has been pushed in this country, which deserves serious attention. I think the capital of the banks should rather fall short than exceed the demand of those engaged in trade; whenever there is an excess of capital the competition will be among the banks to lend, and they will advance funds to those who are not entitled to credit. This fictitious credit, given to individuals without property, will expose the farmers and planters to the most serious injury, because, whenever they fail, their property will

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land corrected Mr. BURWELL, by stating that the failures had exceeded in the aggregate the sum he had mentioned, but in no single instance had the loss to creditors exceeded \$600,000—I stand corrected. Only six hundred thousand dollars! Why, sir, this moderate sum would ruin a whole county if it had fallen upon the farmers. If the apprehensions of the public should coerce you to renew the charter at this time, I shall consider it perpetual. The same means which secured it now will not be forgotten, or neglected hereafter. You may rest assured the magic terror of bankruptcy will be revived when there is occasion. Perhaps the growing wealth of the people may hereafter raise them above the control of the bank, with ten millions capital, but if you should unfortunately adopt the favorite project of some, to establish a grand National Bank with a capital stock equal to thirty millions of dollars; if afterwards you keep pace with the growth of the nation, you may indeed despair of all control over it in future. It will become so interwoven with the fiscal transactions of society, and so intimately blended with the existence of the Government, that their duration will be coequal. The dangerous power of a bank extended over the Continent, with a capital which would necessarily embrace in its funds all the individuals of wealth and influence, would produce the same effect with a national debt to that amount; and when you recollect that this machine will be controlled and managed by the Executive branch of the Government you cannot but feel the most serious apprehension of the consequences. Sir, I do not discuss this question with party feelings; I look forward to the time when the bank and Government will feel in unison, and act in concert. The opposition of the bank is temporary, and will soon yield to its obvious interest. It is that period to which my fears are directed. Who can doubt that the present misunderstanding is the result of momentary causes? Yes, sir, the quarrel is an unnatural one, explanations will take place, reconciliation will ensue, and then we may deplore their intimate friendship infinitely more than their hostility now.

Banks are commercial institutions; the first impulse of their nature is to make money and support the power which can promote their profits; the individuals concerned in them will feel political passions, and may indulge them, but they will learn from experience the wisdom of suppressing their passions when they hazard the loss of profit and patronage. I have, therefore, felt no disposition to know anything about the directors, or to hear the instances of political in-

the Government may fall into the hands of men whose policy, in my estimation, leads to the destruction of the Constitution, and the corruption of public virtue. Would you wish to see such men bolstered up by the influence of a National Bank? Would you be satisfied to see the good sense of the country hoodwinked by money influence? A corporation, possessed of such ample funds, could control presses or establish them to support the most iniquitous men, and advocate the most detestable principles. You should bear in mind that this influence cuts both ways, and it is better to leave public opinion unfettered, trusting to the sound sense and discretion of the people, free from the operation of all extraneous power.

What would the world say if you should demolish this bank to create another? Is there a man in the community who would not condemn you, and justly reprobate a policy so short-sighted and selfish? Such conduct would give full scope to swindling and speculation, and scenes which stain with shame the history of this Republic would be renewed. Sir, the system of paper credit, against which I have entered my protest, and to which I attribute the artificial and insecure state of this country, deserves nothing from you. You need not violate the Constitution to preserve and extend it; without your fostering care, enough will remain to alarm those who prefer solid wealth to the mere appearance of it; although those who think the wealth of a nation can be augmented by printing a few reams of paper will be dissatisfied; they exult in the deception and premature prosperity which flows from public delusion, and will be overthrown the first moment your real condition may be tested by difficulties. I, sir, have been accustomed to think the wealth of a nation consisted in its productive labor, and its capital could be safely augmented only in the ratio of the difference between its consumption and productive labor. This is the true mode of acquiring capital, the process will be slow, but the advance will be permanent. It will depend upon principles of economy, industry, and steady exertions; it is incompatible with prodigality, speculation, and profligate acquisition of wealth. Virtue is the basis of one, delusion and imposture of the other. A people thus situated, steadily exerting its powers, will furnish ample means to procure circulating medium, and prudent habits will add to it with sufficient rapidity. I have always preferred being a happy to a splendid nation. Sir, I have now closed my remarks; the particular situation assigned to me by the House in relation to this subject has compelled me to state the extent of

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faced its original purity, close up the breach which has been made, and cement it by a vote upon principle. I confess the consolation I shall feel in the success of my motion will be greatly diminished if it obtains by the intervention of other motives.

When Mr. B. had concluded, the Committee rose and reported progress; and the House adjourned at a little past four o'clock.

TUESDAY, January 17.

The bill from the Senate, entitled "An act for the relief of Ebenezer Rollins," was read twice, and committed to a Committee of the Whole on Monday next.

The SPEAKER laid before the House a further report of the Comptroller of the Treasury of unsettled balances; which was read, and ordered to lie on the table.

On motion of Mr. SEYBERT,

Resolved, That the joint committee appointed by the Senate and House of Representatives of the United States, respecting the Library belonging to Congress, be directed to inquire into the expediency of making provision for the permanent safe-keeping of the books.

Mr. JENNINGS, from the committee appointed, on the fifth instant, to inquire into the expediency of opening a road from Vincennes, towards Dayton, in Ohio, made a report; which was read, and referred to the Committee of the Whole on the bill to authorize the laying out of a public road, from the line established by the Treaty of Greenville, to North Bend, in the State of Ohio.

The report is as follows:

That the opening of such a road was contemplated by Congress in the act passed April, 1806; but the moneys appropriated for that, and similar purposes, have been found insufficient to accomplish the desired objects.

That the opening of the contemplated road would certainly expedite the sales of public lands, inasmuch, that the Government would shortly be remunerated from that source for necessary expenditure, independent of the general advantage to be derived from an addition to the number of our public roads.

That it will be found the most direct course from Pittsburg to Vincennes and St. Louis, and will no doubt become the chief post route to the Territories northwest of the rivers Ohio and Mississippi, from the seat of Government of the United States, by way of the seat of Government of the State of Ohio. The committee, therefore, beg leave to submit the following resolution:

Resolved, That it is expedient to cause to be opened a road from Vincennes, or from some point on the

presented a bill making appropriations for the support of the Military Establishment, for the year 1811; which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. EPPES, from the same committee, also presented a bill making appropriations for the support of the Navy of the United States, for the year 1811; which was read twice, and committed to a Committee of the Whole on Saturday next.

On motion of Mr. GOLD,

Resolved, That a committee be appointed to inquire into the expediency of providing, by law, for the more convenient taking of recognisances of bail and affidavits in causes depending in the respective courts of the United States; and that they have leave to report by bill.

Mr. GOLD, Mr. VAN DYKE, Mr. GHOLSON, Mr. WHITEHILL, and Mr. RHEA, of Tennessee, were appointed the said committee.

Mr. JOHNSON, from the committee appointed on the twenty-sixth ultimo, presented a bill for establishing trading houses with the Indian tribes; which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. FINDLEY presented a petition of Arthur St. Clair, late a Major General in the Revolutionary Army, praying that his claim for moneys advanced while in that station may be re-examined, and that he may be allowed the full amount of the money so advanced, anything in an act of the last session, for his relief, to the contrary notwithstanding.—Referred to a select committee.

Mr. CLAY, Mr. MCBRYDE, Mr. HALE, Mr. NEWBOLD, and Mr. NICHOLSON, were appointed the committee.

Mr. HAVEN introduced the following resolution, with some remarks on the frequency with which cases pending before the courts of the United States of prosecutions for violation of the embargo and non-intercourse laws were decided against the United States, and the ill effects which such frequent failures must have on the community, creating a disrespect for the laws, &c.:

Resolved, That the Secretary of the Treasury be directed to lay before this House such information as he may have respecting the prosecutions which have been commenced in the respective district courts, for supposed violation of the several embargo and non-intercourse laws, and what sums—particularly specifying those which have been brought to final issue as well as those now pending; stating also the expenses incurred by the United States in the several and respective prosecutions, and the amount of forfeitures and penalties recovered; and that portion of them for which the United States have, or may have, credit at

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On motion of Mr. PITKIN,
Resolved, That a committee be appointed to inquire into the expediency of altering the times of holding the circuit court in the districts of New York, Connecticut, and Vermont; and that they report by bill, or otherwise.

Mr. PITKIN, Mr. GOODWYN, and Mr. ROBERT BROWN, were appointed the said committee.

The SPEAKER observed that he was informed that the Secretary to the President of the United States was in waiting, with a confidential message.

On motion of Mr. SOUTHARD, the galleries were cleared, and the doors closed. They were, after a few minutes, again opened.

MEMORIAL OF CAPTAIN TINGEY.

Mr. BASSETT presented the following memorial:

To the honorable the House of Representatives of the United States in Congress assembled:

The memorial of Thomas Tingey, Captain in the Navy of the United States, and Commandant of the Navy Yard, Washington, respectfully sheweth:

That during the last Summer, sundry publications were circulated through the medium of a newspaper printed in this city, entitled "The Spirit of Seventy-six," signed by a certain "Joseph B. Parsons," and also by an anonymous writer under the signature of "An inhabitant of F street," tending to induce a belief in the public mind that your memorialist had been guilty of sundry acts, whereby the public interest had been wilfully prostrated for his personal benefit, together with insinuations of other acts of dereliction of his duty in the public service, also to the prejudice of the interest of the public.

Your memorialist, therefore, conscious of rectitude in all his intentions, and of the strictest integrity in all his transactions on account of the public, during the whole time he has had the honor of being in their service, respectfully hopes that your honorable House will direct a thorough investigation into his conduct in such manner as in your wisdom shall be deemed just and proper.

Your memorialist forbears to trouble you with an enumeration of the causes which have delayed the presentation of his memorial, or with any of the documents on which he founds his request, believing they may be with more propriety submitted hereafter in detail to those to whom your honorable body may commit the desired investigation, should you deem it proper to honor his memorial with your notice.

THOMAS TINGEY.

NAVY YARD, WASHINGTON, Jan. 14, 1811.

Various motions were made in relation to this petition.

Mr. JOHNSON was in favor of referring the letter for inquiry. He thought the House had

the powers of this House, under which they had already entered into an investigation of the conduct of a Brigadier General of the Army.

Mr. NEWTON thought the subject had been introduced too late in the season for them to act on it, if they were disposed to do so. But, he said, he was too well acquainted with committees of inquiry to be too liberal in their use. They ought only to be applied to culprits of the first grade, and not to the investigation of the conduct of every officer who chose to apply for an inquiry by the House.

Mr. FISK proposed a resolution for appointing a committee to inquire generally into the state of the navy yard at Washington, but subsequently withdrew it.

Mr. WRIGHT was opposed to entertaining the petition in any manner, or giving the least reason to believe that they would interfere with it.

Mr. PICKMAN moved that the petitioner have leave to withdraw his memorial.

Mr. LOVE moved to amend the motion so as to read as follows: *Resolved*, That the petition of Thomas Tingey contains matter not proper for the investigation of this House, and that the petitioner have leave to withdraw his petition.

Mr. SHERREY was opposed to the amendment. He said it stated what was not true in fact. What were the allegations on which this memorial was founded? Peculation in the public treasure was alleged; and would the gentleman say the House had not authority to inquire into it? Had not the House, in opposition to all such arguments, pronounced a determination to inquire into the conduct of an officer whom they could not impeach? Mr. S. said it was not correct to say that this House had not a right to inquire into the frauds on the public Treasury—into the pilferings of the hard earnings of the people. While he believed this to be a proper construction of the authority of the House, he would never interfere to inquire into the improper conduct of any officer of the Government on his own mere motion. He hoped the House would on this occasion do what was necessary and proper, and would not travel out of the record to pass an abstract resolution. He hoped the amendment would not be agreed to, because it would be unnecessary and untrue in point of fact. The House had already settled the principle that it had a right to inquire.

Mr. LOVE asked if it was not agreed on all hands that this matter was improper for the House to inquire into? If so, what objection could there be to putting it on record? What was there "abstract" in this proposition? If there was, it was merely whether Congress, a

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inquire by bringing the officer before them. Were they to be occupied in considering the complaints of every petty officer, as low as a corporal or sergeant? The head of the department was the proper organ for reforming abuses; and he was amenable to Congress.

Mr. PICKMAN said it would not be proper to adopt the amendment proposed, without laying the whole memorial on the journals; which was unusual. Different reasons had been urged by different gentlemen for not acting on the subject; and it would be most proper and most consistent with the usual course of proceeding, simply to give leave to withdraw the petition.

Mr. BACON said the gentleman from Virginia (Mr. LOVE) would accomplish a great point indeed, if he could at this short notice induce the House to reverse a decision they had so lately made. Mr. B. contended it was lawful for the House to investigate such matters; but it did not follow that it was always expedient to do so. In cases of great public concern, as in the case of General Wilkinson, it might be proper, but it did not follow that the malversation of every petty officer was to become a subject of inquiry. There was no occasion to assign on the journals any reason why the petition should be withdrawn, and he was, therefore, against the amendment.

Mr. NEWTON said that the House had settled it as a principle that it was a grand court of inquest for this nation; and whenever they thought proper to exercise this power over any officer, they had a right so to do, and he hoped in God they always would do it. But if they commenced inquiry into the conduct of every navy agent, &c., there would never be an end to business of this sort. They could neither do the nation or the individuals justice. He hoped they would not, by agreeing to the amendment, deny the Constitutional power of the House, but would give the petitioner leave to withdraw his papers.

Mr. McKIM said he was decidedly in favor of inserting the words proposed as an amendment, viz: that the memorial contained matter not proper to be inquired into by the House. It was the most appropriate expression that could have been employed. What was the object of the memorialist? A justification of his own private reputation; which is alleged to have been traduced in a newspaper, and by private characters. Mr. McK. asked, are not the laws open to him? Why not resort to them? Why bring the subject before the National Legislature, when he has so good a remedy before another tribunal? In fact Mr. McK. said he was disposed to have a general inquiry into this subject, but he doubt-

It was then resolved that the memorialist have leave to withdraw his memorial.

BANK OF THE UNITED STATES.

The House resolved itself into a Committee of the Whole on the bill for renewing the charter of the Bank of the United States—the motion for striking out the first section still under consideration.

Mr. FISK.—Mr. Chairman: I regret that we are called upon to vote for or against striking out the first section of this bill, at this time. I could have wished that, upon a bill of so much interest and importance, we could have proceeded to have filled the blanks, and made such amendments as would have obviated many objections which may be urged against it in its present form. I am not prepared to give my vote in favor of a renewal of the charter of the Bank of the United States, either upon the terms upon which it was originally granted, or in the manner contemplated by this bill; yet, upon conditions less objectionable, I should feel myself bound to vote in favor of a renewal. But the question presented upon this motion, is not upon what terms this charter shall be renewed, but whether it shall be renewed upon any terms, subject to any conditions Congress may impose.

In this view, I consider it the most important subject upon which this Congress will be required to act. It is determining a question which is connected with our finances, with the circulating medium of the country, and with our agricultural, commercial, and manufacturing interests; and, as such, it cannot but be interesting to every class of our citizens.

The interests and prosperity of the United States are not only intimately, but inseparably, connected with trade. The market of the farmer depends greatly upon the merchant and the shipper. And the price and demand of every article of produce is in a great degree regulated by the difficulties or facilities of payment. Let the difficulty of paying be increased, and the price of produce immediately falls; for the demand for exportation becomes very limited, the markets are overstocked, and prices reduced. Any sudden check to our commerce, whether produced by our own municipal regulations, or the outrages of foreign Powers, checks the market and the price of produce; so that not only the merchants, but the farmers feel its effects. I scarcely need recur to the history of the times when trade was principally suspended in this country, to show how severely the suspension operated upon every class of our citizens, and in every part of the country.

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interests of this country. Agriculture, commerce, and manufactures constitute the source of our wealth, revenue, and prosperity. To foster and cherish the principles upon which rest our existing hopes and future prospects, can never be a question of doubtful policy with a wise and patriotic legislature.

We have seen that commerce is essential to our interests; but commerce will not flourish without credit. It never has prospered independent of credit. As credit is essential to trade, so is punctuality to support credit. Look at the business of any commercial people, and see how much of it is done upon credit; and see the integrity and fidelity with which punctuality is maintained in order to support their credit.

For several centuries past, banks have been the successful medium through which credit has not only been preserved, but great wealth acquired. This assertion is warranted by the history of these institutions, and of the countries where they have been patronized. The first bank established in Europe, was at Genoa, in 1407—four hundred and four years ago; this was soon followed by one at Venice.

The Bank of Amsterdam was established in 1609, and shortly after those of Hamburg and Rotterdam; and the Bank of England in 1694; the Royal Bank at Paris in 1718; the Bank of North America in 1784—a memorable period in our history—and the Bank of the United States in 1791.

All these different institutions show, that enlightened legislators have entertained but one opinion upon this subject both in Europe and America for the last four hundred years. They have seen and acknowledged their utility. Banks have long since been considered not only essentially useful in the transaction of commercial concerns, but as highly necessary to aid the fiscal operations of Government. And a more unanswerable argument cannot be urged in favor of their general utility than their uniform success; to this may be added the prosperity of the people and the countries where banks have been supported. Their immediate advantages are, a convenient circulating medium; the safe depository they afford for cash and funds. And they serve to keep the standard of money steady and correct; to insure punctuality; to preserve credit; to inspire confidence, and to promote a spirit of industry and enterprise. They are not, as many have supposed, in their nature hostile to Government and dangerous to liberty. They rather form a barrier to tyranny and oppression. Their principal business is to lend money at the common rate of interest, and thus prevent usury.

where banks, not under the control of government have ruined a State. A bank owned by Government, and under its command, would be an engine dangerous to the people. But when owned by individuals, neither the people nor the Government have anything to fear from it. It is then dependent on both for its business, prosperity, and usefulness.

With the evidence which both history and experience offers to our reflection, we cannot doubt the utility of banks, nor deny but that they have been beneficial to us. And we are justified in the conclusion, that, under proper regulations, they may subserve the best interests of the people of the United States. They are now in successful operation in almost every State in the Union, and that they have been useful, the present prosperous state of the country abundantly proves. We enjoy as perfect security for life, liberty, and property, as any people under any government ever did. These are the great objects of a good government. And we may triumphantly ask, where is the nation or people that enjoy these with more freedom and safety than the American people? A parallel for our liberty and prosperity, for the last twenty years, is not to be found in the history of man. Our wealth, population, and resources, have increased beyond what any one would have calculated or imagined, and beyond what strangers and foreigners now believe. Industry, wealth, and contentment, pervade every quarter of our country, and poverty and oppression are unknown to our citizens.

In 1791, the year this bank was incorporated, our exports amounted to about eighteen millions of dollars; and in 1804, they had increased to about seventy-six millions, gaining in thirteen years fifty-eight millions; and our tonnage in about the same proportion.

Much of this prosperity is to be attributed to the active capital which has excited industry, and a spirit of enterprise among us, and the activity of this capital has been in a great degree created and promoted by the Bank of the United States. Its operations have been extensive in all our trading towns. It has aided in loans and discounts, and assisted in the collection, safe-keeping, and transmission of our revenues. It has been the depository of our Treasury, and is now become incorporated with the administration of the fiscal department of our Government. The connexion which it has formed with almost every branch of business in the country, is not slight and trifling, and so easily to be severed as some seem to believe. Its operations are deeply interwoven with the dealings and concerns of all the men of business in the United States.

With a capital of ten millions, it has furnished

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And travel through any State in the Union, and their effects may be readily seen, affording a prospect, consoling and elevating to the philanthropist and the patriot. The land is highly cultivated, good buildings, turnpike roads, bridges, and other expensive improvement, indicate the wealth of our citizens, and the prosperity of the country. Money has been freely circulated, trade has been active, produce high, and our country has been improved by these unexampled advantages to a degree far beyond what the most sanguine calculations, twenty years ago, could have anticipated. And yet, sir, we are gravely told, that this bank has nearly ruined the country; that it is threatening our best interests with destruction. As well might gentlemen tell us that total darkness prevails at noon-day, or that the sun, in his meridian splendor, affords neither light nor heat to any part of this globe.

The principal portion of the trade and business of the United States has been conducted by a paper medium; metallic has scarcely been seen. The amount of this circulating medium is, say fifty millions. Now what is proposed by denying a renewal of the United States' Bank charter? That this bank shall close its concerns, and of course stop all its accommodations. This must necessarily check and change at least one-third of the circulating medium of the country. It will undeniably require \$24,000,000 to be directed to one operation, and for a time to one point—for the capital is \$10,000,000; this is to be collected to divide among the stockholders. There are \$19,000,000 due to the bank; this must be collected. This will occasion a demand for this amount from other sources; it must be paid. And the \$5,000,000 in the bank makes the sum of \$24,000,000, which must be suddenly called in. The effect this will have upon the various interests in the country can neither be described or conceived. It must inevitably give a general and heavy shock to all paper credit; this credit, so much and profitably in operation, must receive a severe, if not a mortal wound. And what substitute have we for this when it shall be destroyed? Silver and gold coin cannot be relied on. There is not from the best estimate an amount to exceed \$10,000,000 specie in all our cities and trading towns, and this will be collected by this bank. The price of all stocks, and every kind of produce and species of property must suffer a great depression, for a scarcity of money enhances its value, and consequently depresses the value of every other species of property. That this sudden, if not total change in our system, must occasion great embarrassment, produce failures, dis-

trous consequences which any other people might experience from such a measure. But I own, sir, I dare not incur by my vote the awful responsibility of this bold and untried experiment, unless compelled by the Constitution. This, in my most deliberate opinion, the Constitution does not require.

But the question of constitutionality I shall not at this time discuss. If it is a question which Congress may discuss and decide, it was discussed and deliberately decided at the time this charter was granted. The decision it then received has met with the general approbation of the States and of the people. Branches have been established in a number of the States, and the bills have circulated without opposition or difficulty in all. And counterfeiters of this paper are punishable for forgery by the statutes of the different States. For twenty years this institution has received the countenance and patronage of the Government. In this patronage there has been no difference in the several Administrations, unless that of the Republican Administration has been the most extensive. This bank has been employed by the Government to keep its treasure, to collect and transmit the revenue; and the Government, it will be recollected, originally owned two-fifths of the capital, which has been sold at a great advance. The United States owned \$2,000,000, equal to five thousand shares. 2,493 shares were sold in 1796 and 1797, at an advance of 25 per cent. - - - \$997,200
Twenty-five per cent. gain - - - 298,600

First sale amounted to	-	-	-	1,295,800
287 shares sold in 1797	-	-	-	114,800
At twenty per cent. advance, gain	-	-	-	22,960
				<u>137,760</u>

By the Republican Administration in 1802, two thousand two hundred and twenty shares	-	-	-	888,000
Add 45 per cent. advance, gain	-	-	-	399,600
				<u>1,287,600</u>
				<u>137,750</u>
				<u>1,295,800</u>
				<u>2,721,160</u>

So that the United States gained \$721,000, and of this \$399,600 has been received by the Administration under Mr. Jefferson. This sale was sanctioned by a vote of the House of Represent-

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to have taken measures to have checked and stopped its operations. And there is nothing in the argument that the faith of the Government was pledged for twenty years, and the law, although unconstitutional, could not have been repealed. For Congress cannot pledge the faith of Government by an unconstitutional law. If Congress should establish a monarchical government in any State or Territory, and by law guarantee it to the people for twenty years, would any one dare to contend that the faith of Government was pledged for twenty years, and this law could not be repealed? Certainly not. And why? Because such a law would be unconstitutional. It would be the duty of the Legislature to repeal it, because the members are sworn to support the Constitution? And how will gentlemen, who have been members of this House many years, and entertaining the opinion that this charter was a violation of the Constitution, and voting to approve the sale of the bank stock, and for other measures to countenance its operation, and never attempting to rid the country of this monster, reconcile their conduct with their duty? It can only be reconciled by the conclusion that they did not question the constitutionality of the charter. This conclusion is warranted by the act of Congress, passed 16th of February, 1804—*Laws United States*, volume 7, page 87, in these words, entitled "An act supplementary to the act to incorporate the subscribers to the Bank of the United States:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President and Directors of the Bank of the United States shall be and they are hereby authorized to establish offices of discount and deposite, in any part of the territories or dependencies of the United States, in the manner and on the terms prescribed in the act to which this is a supplement."

If the original law was unconstitutional, this act extending the powers of the corporation was equally unconstitutional. This act was passed by a Republican Congress, who did not believe that the original charter was unconstitutional. It is but lately, very lately, that Constitutional difficulties have suggested themselves to some gentlemen. Even at this time, the Administration has no objection to the constitutionality of the measure. The report of the Secretary of the Treasury, the proper officer to speak the opinion of the Executive upon this question, is my authority for the assertion, that the Executive will have no Constitutional difficulties to encounter in passing a bill for the renewal of this charter. That report was made pursuant to a resolution of

in Denmark?" Great exertions have been made to excite sensibilities and clamor against the renewal of this charter. The money changers, stock brokers, and speculators, vultures that prey upon the vitals of the community, have been flying through the country, denouncing all who should express or entertain an opinion in favor of the measure. But, I trust, we are not yet arrived to that period in the history of our Government, when Congress must legislate under the hissing of the gallery, or the denunciations of prostituted or misguided presses. If we are, sir, we may bid adieu to our liberties. Unawed by these vaticinations, it becomes us to examine patiently, and decide deliberately, this great question presented to our consideration for decision.

In examining this question, we are naturally led to inquire, Is an institution of this nature, in the present state of our country, necessary—is it proper? And, in pursuing this inquiry, let me recur to the report of the Secretary of the Treasury, and see if the aid of this institution is required in the administration of the financial department of the Government. Will not his experience enable him to answer the question correctly? To what better authority shall we resort? What are the principal duties of the Treasury Department? The collection, safe-keeping, transmission, and disbursement of public moneys. For performing all these duties, this bank has been the efficient and faithful agent. In twenty years past, it has collected and disbursed, at its own risk, not less than \$100,000,000 public moneys—if you allow the revenue to have averaged \$5,000,000 a year, it would amount to this sum received in; and same amount transmitted and disbursed amounts to \$200,000,000 in twenty years. Having a greater capital than any other company in the country, the public money is more secure with this company than any other. It then assists essentially in the safe-keeping of the money, and this, the report tells us, is one of its advantages to the Government. But its more essential assistance to the Government is in the collection and transmission of the revenue at its own risk. Our revenues are secured by bonds, and these bonds are payable at this bank and its branches, in the different ports of collection. They are accordingly lodged in the bank for payment, and, when due, they must be punctually paid, or the debtor loses his credit at the bank, and, of course, in the commercial world. Hence, every exertion is made to pay at the time the bond becomes due; and hence our revenue has been paid with such scrupulous punctuality, and so few losses. And, is it not an object of

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known for twenty years, and you place your estate in the hands and at the disposal of twenty or thirty entire strangers, of whose character and responsibility you know nothing, nor have the means of acquiring any knowledge, and over whose conduct you have no control. Should an individual act thus with his property, he would be deemed to have lost all regard for it, if not considered a madman. In resorting to the State banks, we are offering the amount of our revenue as a bounty for intrigues, cabals, and factions through the country. In almost every State there are a number of banks, and each will endeavor to get the revenue collected in that State, to keep and trade with. It must be given to one, or divided among them all. If one is selected as the favorite, all the rest become jealous, dissatisfied, and exert their capital and influence against the favorite bank and its patron, the Government. This will awaken a spirit of faction in every State yet unknown in this country. If all are to be gratified in their request for the deposits, the Government must open separate accounts with all the different banks in the country, to the amount of fifty or sixty; and new companies will be formed, and new applicants request to divide the business and share the profits. Indeed, there will be no end to the scenes of speculation and intrigue, which will soon appear, if this course is adopted by the Government.

Again: the Government have no means of ascertaining the system or principles upon which these different banks conduct their business; they are creatures of the States, and in no way answerable to the General Government. The Treasury cannot inspect their books, nor ascertain their funds; of course we must be ignorant of their responsibility. And yet we are to deposit moneys in their hands, to five or ten times the amount of their capital. But few of the State banks have a capital beyond a million. In New York and Boston, the revenue deposits may amount to five or six millions a year; and are we to intrust this with a corporation, which, if it failed, would not pay more than a fifth part of it? Besides, you may not be able to command these moneys when required, if left with those over whom you have no power. It is possible some of these State institutions may be hostile to your Government; they may refuse payment, and this refusal be supported by the State. Shall we place our public treasure under the control of States which can order out their militia to oppose and resist the execution of our laws, or refuse their aid to enforce them?

But, suppose the revenue collected and safely kept by these different banks, how is it to be safe-

States, as the bills of this bank do? Carolina and Kentucky bills are unknown, and would not pass in New York and Boston; and New York bills would not pass in Kentucky or Carolina. New England bills do not pass in New York but at a considerable discount. But, under the present system, if Government have five millions deposited in Boston, and it is required to be paid at New Orleans, a draft is given by the branch in Boston, upon that in New Orleans, and the money is paid at the latter place as soon as the mail can travel there.

Again: if the Government is to take the risk of collecting and distributing the revenue, let us inquire, what this can be done for? The revenue amounts to, say ten millions dollars, collected and paid out annually; and allow one and a half per cent. for transmitting, as low a rate as it would be done for, and this, on twenty millions, amounts to six hundred thousand dollars a year, a sum equal to our civil list.

But another serious evil is to be encountered in putting down this bank—you deprive the country at once of a circulating medium. Silver and gold cannot be had—and what paper, but that of the United States' Bank, will pass current in every part of the Union? None. You can out-ride, in twenty-four hours, the credit of any other bank in the country. This evil will be most seriously felt in the interior. It will at once check emigration from the North and East to the West. For those who wish to remove will not be able to sell their property; it will fall essentially in value; and, if they should sell, coin not being in circulation, they could not procure any paper money which would pass current to pay the expenses of travelling from Massachusetts to Ohio and Tennessee; and if they should arrive there, they would have nothing to purchase land with. The sales of our land must stop for a time, at least until specie can be brought into circulation, for specie only is taken in payment; this comes now through banks—but the banks will require it all for their own support.

And will not the people inquire, why all this pressure and embarrassment? They certainly will. And will they be satisfied with the answer, that the bank was unconstitutional and could not therefore be continued? No; they will not believe it. They will justly reply, that this state of things ought to have been foreseen and provided for by their rulers, as it might have been. In the ten past years of peace, plenty, and prosperity, which we have experienced, instead of devising a system to take the place of the present bank on the 5th of March, what have the rulers done? They seem never to have even thought

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which are now about to fail us, and that, too, when the Treasury is nearly exhausted. For, after paying the \$2,750,000 to this bank, there will not remain much more than this amount in the Treasury. The revenue bonds outstanding, to the amount of about ten million dollars, will not, cannot, be paid if bank accommodations are to stop. Recourse must be had to loans, the last resort of empty purses and empty heads—and a press for money, and its high price, will render loans difficult to be effected, and subject the Government to a high rate of interest.

These considerations suggest to us the imperious necessity of continuing the operations of this bank, under such restrictions as may be deemed most advisable, and thus to keep in motion the present system of credit, and support the existing principles of doing business throughout the country.

And what are the reasons for refusing a renewal of this charter? Let them be examined, and, unless they are solid and substantial, let them not prevail. One reason assigned is, that it employs a foreign capital, which is injurious to our country.

This is not an objection of any weight; and, if it were, have Congress the power to prohibit the employment of foreign capital in the United States? If we prevent it from being employed in this bank it may go into the State banks, or take any other direction, not prohibited by the Constitution or laws of the country. But it has ever been the liberal policy of this Government to invite foreign capital, and foreigners, to come among us.

Gentlemen seem to consider that portion of this stock, held by foreigners, as having no other connexion with our own citizens than compelling them to pay eight per cent. per annum interest for it.

Let us, for a moment, see how this money, to the amount of seven millions two hundred thousand dollars, owned by foreigners, is employed, and the objection urged on this ground must vanish. It will not be denied but that it is used in trade. And it is wanted here to make cash payments for shipments made to Europe. This enables the American merchant to make prompt payment for the goods he imports from Europe, by which he obtains them, say eight per cent. below the credit price, while he, instead of obtaining this credit in Europe, obtains it at the bank for six per cent. Here, then, is a difference of two per cent. in favor of the American merchant. This, on seven millions two hundred thousand dollars, amounts to one hundred and forty-four thousand dollars a year—in twenty years, to two

amounted to \$6,080,000, which the Government and citizens of this country will receive by passing this bill. So far, this would be raising a revenue, and not liable to any Constitutional objection.

But, it is said, this capital has an influence upon elections unfriendly to liberty. Whatever may have formerly been the political influence of this institution, the competition of banking business has long since rendered it harmless as a political engine. But, while gentlemen complain of its accommodations being partial, they propose the singular remedy of destroying them entirely; because it has committed the fault of not accommodating everybody, it must now cease to accommodate anybody.

If we have not too much capital, our citizens will find a profitable use for this. That this is wanted and engaged in business is incontestably proved by the dividends which this bank has made, of eight and nine per cent. profit. If the charter shall expire on the 4th of March, this ten million dollars capital, which may and probably will be collected in specie, will be again thrown into circulation here or sent out of the country.

Suppose it retained here, what are we to gain or lose by the experiment?

The scarcity of specie consequent to this operation, will appreciate its value, and, in like proportion, depreciate the price of every other kind of property—say thirty per cent. These foreign stockholders, having seven millions two hundred thousand dollars in specie, will be able to speculate on the distresses of your own citizens. They will be the gainers, we the losers. If they can make by the bargain, as they undoubtedly may, thirty per cent.—this, on seven million two hundred thousand dollars, would amount to two millions one hundred and sixty thousand dollars, which, added to the present capital, would be nine millions three hundred and sixty thousand dollars. This amount, vested in any other bank stock, or valuable property, would continue to yield them eight per cent. profit annually. This, on nine millions three hundred and sixty thousand dollars, amounts to seven hundred and forty-four thousand eight hundred dollars a year—one hundred and sixty-eight thousand eight hundred dollars more, in a year, than they would receive by continuing their capital in this bank. It is evident that a refusal to renew the charter of the Bank of the United States will not prevent the use of foreign capital among us, as has been urged by gentlemen opposed to a renewal. I do not allude to the gentleman from Virginia, (Mr. BURWELL,) he does not consider it an objection that so much of this stock is owned by foreign-

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of merchandise, leave the country for a better market. But it will, at any rate, be in the hands of those who may not, after the refusal to renew the charter, feel very solicitous to aid the operations of your Government, or relieve the distresses of the people, by sending this specie into circulation among us. We should require strong arguments, indeed, to induce us to adopt a measure which may at once drive out of the country, or lock up, so large a portion of the specie capital. Whether it goes out of the country, or remains for a year inactive here, the effect upon the community will be the same. The great demand and high price of specie will depress the price of every kind of stock and every species of property; our wheat, cotton, hemp, tobacco, and every article of produce, must suffer a depression of at least ten per cent., perhaps not find a market at any price. The nation will be subjected at once to the loss of a sum at least equal to the amount of the whole capital of this bank. For the amount of produce and merchandise in the country may be estimated at one hundred millions dollars; a loss of ten per cent. would be ten millions dollars, a sum equal to our revenues for one year. By whom is this loss to be sustained? By the merchants? No; it will fall upon the farmers, the manufacturers, and mechanics; your rich moneyed capitalists are safe—nay, they are the only men who will profit by such a state of confusion and distress.

When I advocate a continuance of the present system, I advocate the interest of the farmer, the mechanic, and even the laborer, who alone must suffer most severely, by the experiment of breaking up this bank and your present system of paper credit. Of this we may all be convinced when too late to remedy the evil. The effect it may produce may be entirely different from what the opponents to this bill now believe. Instead of a blessing, it may prove a scourge and a curse to the country. Politicians, we all know, are liable to err in their calculations, and often mistake the real bearing and effect of their measures upon the community. The Turkish Government once devised and adopted an infallible expedient, as the rulers believed, to prevent a scarcity of corn, by prohibiting the exportation of this article. But the consequence of this favorite measure was a famine, want, and calamity, instead of plenty and happiness.

And are gentlemen, who are opposed to the renewal of this charter, quite sure what will be the consequence of stopping at once the operations of this bank? I apprehend not. They all admit it will, for a time, occasion some embarrassment to our citizens and our Treasury, but

ing business in our commercial towns must convince any gentleman that when a merchant stops payment, he is seldom indebted to the farmer. His credit contracts are with the banks and merchants in town: instead of purchasing produce from the farmer upon credit, the merchant obtains a credit at the bank, procures bills, and is in this way able to purchase from the farmer for ready money; and if the merchant fails, his creditors in town, not in the country, are generally the sufferers. By lessening or destroying bank accommodation, you transfer the credit from the city to the country. Then if a merchant should fail, his creditors in the country, the farmers, would suffer. Should this be the effect of putting down this bank, the agriculturist who now sells his wheat, hemp, cotton, and tobacco, for cash, will be compelled to sell upon credit, and take the risk of failure from the banks and merchants to himself. Is this the manner in which trade is to be lessened by stopping bank credit?

But it has been urged that we have too much paper in circulation. Admit it. The destruction of this bank will increase, not diminish, the quantity of circulating bank paper; and I consider the embarrassment which must immediately follow the closing of the concerns of this institution as the least of the evils the community will experience from a refusal to renew the charter. Congress may indeed prevent the operation of this bank after the 4th of March, but Congress can neither prevent a spirit of trade, nor subdue the passion for speculation. For, while we are debating the expediency of destroying this bank, in order to free the country from the mischiefs of an extended bank credit, we find new banks springing into existence in every direction. We have no less than five bills now on our table for incorporating this number of banks in this ten-mile-square District. And the gentleman from Virginia (Mr. BURWELL) has told us that these applications are an evidence of capital or of corruption, but I consider them rather as evidence of the destroying spirit of speculation, which threatens to stand upon the ruins of the United States' Bank till the country shall be overwhelmed with new emissions of paper from these new manufactories. The banks established by the State Legislatures will scramble for the privilege of filling the chasm to be made by the destruction of the Bank of the United States. Already are they preparing for the patriotic endeavor. Our State Legislatures are to be importuned to become bank jobbers and joint undertakers and copartners in the enterprise. The profits are to furnish revenues sufficient to satisfy both avarice and ambition. Meanwhile

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Virginia, and Vermont, are large stockholders in their State banks; New York and North Carolina have also an interest in some of their banks. The States cannot be restrained, nor is it to be wished that they should be prohibited altogether from incorporating banks. But what difficulties are we to experience in resorting to these numerous and conflicting institutions for the collection, safe-keeping, and transmission of our revenues? The deposits of the Government will render banking profitable to the favorite bank that receives them. The aid of the Government will make this bank superior in funds and credit to any of the others which do not share this solid patronage. This will produce jealousies and collisions of interests between banks in the same State, and thus form cabals against the State and General Governments. It will not stop here, but will extend from State to State. If the States and State banks are to regulate trade in the article of paper money, they may prescribe the terms. To give the preference to their own paper, they may exclude that of any other State from circulation among them, in the same way that the paper of unincorporated banks is excluded by some States, and bills of a certain amount from others.

The great commercial States will have in their power the paper of the small and agricultural States. For where there is most trade, there the most current bills will be the most valuable. The bills of New York and Pennsylvania, from the great trade and frequent intercourse between their capital cities, would be in greater demand than any other; the bills of either State would pass current in the other, and this would give them a credit and currency superior to all other bills. They would, of course, drive the others out of the market. And, sir, it is possible that other banks may attempt to make up in the quantity of their paper the deficiency in its quality and credit, and all may overtrade their capital, discount far beyond their funds, until a general depreciation of their paper shall produce general failure, and universal distrust in all paper credit. It is the duty of the Government, if in their power, to avert such a state of confusion; to protect and preserve the country from such complicated ruin. But we are about to invite and precipitate this destruction by throwing away the only means we possess to prevent it. Stop this bank, and what check is there then to limit the discount of all other banks? They may issue paper to any amount, and without funds to redeem it. There may, and very probably will be, a common interest and feeling among them to uphold each other, until all shall

to the community. But take away this regulator, and the other banks may go on without fear or restraint to loan millions, without having a dollar in their vaults, until all will be reduced to bankruptcy, as we have already witnessed, in some parts of New England. We have been told by gentlemen that this bank has been the cause of the excess of bank paper, which has prevailed in some of the Eastern States. This I deny. What has been the conduct of banks in that quarter? A considerable number of banks were established in the interior of Massachusetts and New Hampshire. And they went on to issue their bills to a great amount, without regard to their actual funds, and without any specie to redeem them. And had these bills circulated only in places where banks were conducted in a manner equally loose and unprincipled, the imposition would not have been readily detected; but when these bills appeared at the branch bank of the United States, their real value was tested; they were returned, and the system of banking without specie or capital was broken up and destroyed. It will hardly be contended that our revenues would have been perfectly secure in these banks. And what assurance have we that they will be more safe in the others? The Government of the United States cannot limit their discounts, inspect their books, or ascertain the state of their funds, or the principles upon which they act. It never can be seriously insisted, that it would be advisable to deposit the public moneys in this manner. It would be offering the revenues of the Government as a bounty for bank factions and bank frauds. And why shall we be driven to make these dangerous, ruinous experiments? We experience no hardships, no real difficulties growing out of our present system. If we continue it, none are to be apprehended. We shall preserve a paper medium, well known and long approved; with which the people of this country are well satisfied. For not a single remonstrance has been offered against continuing the operations of this bank, while thousands of petitioners have solicited Congress to renew the charter. Nothing but considerations of the most imperious nature should induce Congress at this time to refuse a renewal of this charter, and thus compel the extensive moneyed operations of this company to stop at once. The situation of the country is at this period peculiarly unfavorable, if not unequal to such an operation. But a small amount of specie in circulation, and the course of exchange continually lessening the quantity, draining it from the country; a large portion of the merchants' property seized in Europe; our Treasury nearly exhausted;

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of things, I cannot but contemplate them with the most fearful apprehension. Can the people extend their confidence to the wisdom and expediency of measures which, instead of promoting the general welfare, produce general distress? Why, sir, we seem to cherish as little regard for the opinions of the people as if they had nothing to do with the Government.

But the remedy for all the evils growing out of this breaking down measure, is to be found, we are told by some of its advocates, in the establishment of a new National Bank upon the ruins of this. The country is to be subjected to the spasms and throes of death and birth, at the same instant, in order to preserve, by this bold practice, its Constitution. This is a refinement in State quackery, which must prove fatal to the patient.

Are the advocates for a National Bank quite sure that they could obtain a law of Congress for its establishment, if the United States Bank were out of the question? I apprehend not. Many serious, if not insurmountable difficulties would be found to exist. When an increased demand for money should have rendered it scarce, it would illy comport with that discretion and intelligence which ought ever to distinguish the proceedings of Congress, to increase the scarcity of this article by enlarging the immediate demand for it. While \$24,000,000 would be employed in closing the concerns of one bank, \$30,000,000 are to be called for to commence the operations of another. This would be levying a requisition upon all the circulating medium of the country at once. It would create a demand which could not be satisfied. If this objection could be removed, there are others still stronger to be obviated. It would be found difficult to convince the States concerned in banks that their interests are to be promoted by a great rival bank, with a capital and ability equal to the management of all the banking business in the country. Will the great commercial States of Massachusetts, New York, and Pennsylvania, accede to this measure? They will not, unless they disregard all the profits they might derive by uniting to give credit and currency to the paper of their own banks; unless they neglect to improve the advantage they would in such case have over the other States. If some States now recommend to their Representatives to oppose a renewal of this charter, would they be less attentive to their own interests, and more sparing of their advice, when a National Bank should be attempted? No, sir; nor would their recommendations be less regarded than upon the present occasion. If a bank, with but \$10,000,000 capital, has awakened State jealousies, and roused to action State interests against it, what are we to ex-

of the finances, the Government will not have the power to establish it. A law for the purpose would never be sanctioned by a majority of both Houses of Congress. And if we cannot continue the present bank upon any terms, no other ought ever to be authorized by Congress. For to what a state of things might a new National Bank, with twenty or thirty millions capital, reduce the country at the expiration of twenty years from this time? Its stock might get into the hands of foreigners, or be owned by those who would be found in the opposition to the Administration; and, surely, this would furnish reasons as powerful for putting down the National Bank as the Bank of the United States. And the country would be compelled to submit to another general shock, and perhaps destruction, of paper credit. If we have not stability and discretion sufficient to continue and support such an institution, we most certainly should not undertake to establish it. For we are exposing the country to alternate affluence and penury—making experiments ruinous to the people and destructive to the Government.

Some gentlemen tell us that this corporation can close its concerns without occasioning any embarrassment in the community. If the trial is to be made, I most sincerely wish they may not be mistaken; but to me it appears utterly impracticable. The gentleman from Virginia (Mr. BURWELL) seems to think that the shock will be slight and scarcely perceivable; that this angry cloud will be disarmed by the conducting powers of the State banks. But can he assure us, that such will be the result from any actual experiments which have ever been made in this branch of philosophy? I believe not. And it is to be apprehended, that even if this cloud should disappear, clouds of discontent and faction will succeed, and may soon be seen hurrying and chasing each other over the political firmament of America, until the tempest comes on which shall close forever the prospect of our united strength and happiness.

The times are dangerous for national experiments. When we look around us we find the political passions of man rising to madness; long established Governments breaking up their strong foundations, and the world almost deluged with blood and warfare; we alone stand upon the narrow isthmus of peace and prosperity. And is it for us to complain; to be discontented with the pre-eminent happiness we enjoy; to hazard our present enviable condition upon the doubtful result of this great and sudden change in the administration of our national finances? No sir. It becomes us to beware of innovations: to weigh

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effects, that the refusal will produce in this community, may prove groundless; that the dissolution of this institution may not be the organizing of ruin to a considerable portion of the country.

Mr. SMILIE spoke a few minutes in reply to Mr. FISK.

Mr. SEYBERT.—It may be said that this subject has been exhausted by the discussions of the ablest politicians of the country. I will premise, the remarks which I shall offer are intended solely to justify the vote which it is my intention to give on this momentous occasion.

The question pending the United States' Bank has excited a peculiar interest throughout this nation, more especially in our seaports. The dissolution of this institution, which, from its limitation, will expire on the fourth of March next, has been portrayed in colors of the darkest shades, and the distresses which many maintain will be consequent to that event, call seriously for a fair and deliberate investigation. I hope, sir, I shall be pardoned for imposing on the patience of the House, when it is recollected that the community which I represent have employed four-tenths of the capital stock of the United States' Bank. If evil consequences are to attend the dissolution of this establishment, or if beneficial results proceed from its continuance, in either case I must feel myself essentially interested; it is therefore my wish to be distinctly understood upon the important principles which have connexion with the great question now before us.

At the last session of Congress I presented the memorial of the President, Directors, and Stockholders of the Bank of the United States; at that time I entertained no positive opinion on the subject; the discussions which took place in the committee to whom the memorial was referred, necessarily, as a duty on my part, excited that attention which the importance of the question imperiously demanded. Under circumstances of doubt, I voted in favor of reporting a resolution in support of the bank, for the purpose of giving to the establishment every chance which reason could urge; at the same time reserving to myself the right to pronounce a final decision, according as policy and expediency, but more especially as principle should dictate. I will admit, sir, that this is not the time or place to institute the general inquiry, whether banks are or are not beneficial to a nation? Because, whether the charter of the United States' Bank be renewed or not, the several States, who have the unquestioned authority to incorporate bank establish-

ment within its proper limits. I understand the proposition as applicable to the agricultural, manufacturing, and commercial interests of the United States.

For my proofs of this proposition, I will not rely upon the famous Bank of St. George, at Genoa, whose authority, by a gentleman from New York, (Mr. Fisk,) has been considered of much weight. I will recall to the mind of my friend the remark of an intelligent traveller, who, when he visited this bank of antiquity, exclaimed: Here lies concealed the enigma, whether the bank possesses millions of millions, or whether it is indebted millions of millions! He concludes, Upon this important secret rests the safety of the State. Unhappy State, say I, whose safety depends upon a secret concealed within the vaults of a bank. Perhaps to a development of this secret may we attribute the present servile condition of the people of the once far-famed and powerful Republic of Genoa.

I am one of those who do not entertain fears in consequence of foreigners becoming the stockholders of our banks, provided, on all occasions, you deny them the privilege of voting either directly or by proxy. I would even go so far as to prohibit their being original subscribers to any stock which may be created in our territory. The States do not object to a foreigner holding the stock of their banks. Any political consequences which can arise from such an interest will exist without the General Government having power over them. For the present I am opposed to the exclusion of foreign capital from our country, because it is not established that we possess a surplus of our own, and that the introduction of more from abroad depresses that which is immediately the property of our citizens; the prices which are at present paid as the interest for a borrowed capital convince me that it would be impolitic at this time to adopt the principle of exclusion.

Though I have admitted, that, under certain specific provisions of the law, foreigners should be permitted to hold the stock of the Bank of the United States, it is not thence to be inferred, because they have become the stockholders, they are to be confirmed, from time to time, in the exercise of an exclusive privilege in our country.

Sir, I am decidedly opposed to a prominent, and what to me appears to be a very dangerous feature in the bill now under consideration. I allude to the eighth section, which admits of an increase of the present capital stock of the bank. Adopt this provision, you will thereby create an Herculean power which will have at its mercy

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gain to the Government? In this question Pennsylvania is deeply concerned; she has several millions of dollars invested in her banks; this to her is a valuable source of revenue; upon this may she predicate much of her future prosperity; hence will she derive the funds requisite for future internal improvements; but if you fill up the blanks in this section with a considerable sum, all these prospects will be blasted forever; you will thereby destroy the tree from whose ramifications were to emanate the blessings of peace and the sinews of war. Those of her Representatives who may deem it politic and Constitutional to vote for a continuance of the charter of the United States' Bank, ought surely to oppose any increase of the present capital; we have been told that that which now exists has been found sufficient for all purposes, at a time when our commerce was much more extensive than we have reason to suppose will soon again be the case.

If, as some say, the bank by its capital, is to facilitate the fiscal operations of the Government, I am decided this should never be greater than what will be barely sufficient for this purpose. If you go further, you place in the hands of the Government an engine which may destroy the freedom of this nation. We are further told, that in case of war, the Government may derive advantage, in the form of loans, from the bank; admitting this to be the fact, it is very evident, under the uncertainties of a war, the demands of our merchants upon the banks will diminish, so that the bank capital already created throughout the Union may be very readily had for the exigencies of the State. If a greater sum shall be found to be necessary, the patriotic zeal of your citizens will prove itself all-sufficient to supply your wants in a cause which will be deemed just and honorable by the nation.

I am also opposed to the United States having the right in any manner to appoint any of the directors of the bank, not so much on account of any influence which the Government might derive from such appointment, as to prevent ruinous consequences to all who may be concerned. Who will such directors generally be? Certainly persons who need the aid of the banks, for none others would make application for the appointments; when they are appointed, they will be subservient to the views of such of the directors as are chosen by the stockholders in their places; they will lose sight of the public welfare; they will be interested by the accommodations which they may find necessary for their purposes; to obtain these, they will yield to their associates;

thereby had for the Treasury, in consequence of sales which may be made of the stock belonging to the nation, or of the bonus to be given, shall induce me to vote in favor of a measure which is not grounded upon strict Constitutional principles.

The history of the banks in our country informs us, that the one usually termed the Bank of North America was the first establishment of the kind which received the sanction of the Government. This institution was incorporated by an act of Congress, in the month of May, 1781, under the authority of the "Articles of Confederation." The present Bank of the United States was incorporated by an act of Congress, on the 25th of February, 1791, during the operation of the present Constitution of the United States.

Without an attempt to examine every hypothesis, which has been or which might be proposed, respecting the constitutionality of the principle, I will content myself with the statement of the case, such as it appears to my mind. The first public act which I performed, as a member of the Congress of the United States, was, to swear solemnly that I would support the Constitution of the United States. It therefore is my duty to examine and consider its precepts, according to the best of my ability.

The "Articles of Confederation" and the present Constitution of the United States do not differ as regards any power delegated by the States to Congress, touching charters of incorporation. I can never persuade myself that the Constitution was intended other than to have a definite meaning; or that it was ever contemplated to speak an equivocal language; ambiguity arises solely from the misconceptions of its interpreters; it is very plain and of easy comprehension, especially as it relates to the present question, since it is totally silent on the right to create corporations—its wisdom is further illustrated by the special provision for the only exclusive privilege which is consistent with a free and equal government, and that is in favor of genius.

The powers delegated by the States are special and defined, and, it is expressly declared by the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This language needs no interpretation. I cannot for a moment permit myself to suppose, that the patriots who were tested during the long continued uncertainty of the most important events of our Revolutionary period, and to whom was ultimately assigned the right and power to construct

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Constitution, why the imposition on the people in publishing it to the world? Was it not a prodigal waste of labor and materials, to furnish every citizen of our country with a copy of that which can only be understood by professional men, or such as are eminently skilled in scholastic research? It had better remain a secret, concealed amongst the musty rolls in the archives of State, than be a puzzle for mankind. As long as this instrument is preserved pure and untarnished, it will receive a becoming respect from your fellow-citizens—it will be regarded as “the stupendous fabric of human invention.” Remember, the present argument, in several important points of view, affects posterity in common with ourselves. You had better commit the unintelligible jargon to the flames, than by the agency of construction neutralize wisdom by folly. Sir, if we have a Constitution, which the people cannot understand, I then say, cut the original into slips, and provide the means for a better; or if that is not to be done, and we are to be ruled by the iron hand of power, in that case, as one of the American people, I will pray you to be graciously pleased to grant a plain bill of rights for our better government.

If we look back, and attentively view the occurrences which took place, when the law incorporating the present Bank of the United States was enacted, we shall find our reasoning supported and confirmed by many important circumstances; we shall then perceive, that the act of incorporation was opposed on Constitutional ground, by men who were and continue to be esteemed for their talents, political skill, judicial knowledge, probity and patriotism, and it has been admitted, that the arguments formerly urged are unanswerable. That the power to create corporations was never intended to be ceded on the part of the United States, is proved beyond all manner of contradiction; for we are told by the highest authority, by one who was a member of the General Convention, that it had been proposed to cede to Congress the power to create corporations, and that the proposition was rejected, after a deliberate discussion. In my opinion this decision is in proof of the sagacity and wisdom of those who made it; it was highly justifiable to retain this power to be exercised by the States; because, corporations are generally founded on circumstances, which are entirely local—as such, they can be better understood by the Legislatures of the respective States, than by that of the General Government.

The experience of every session proves that the decisions of Congress vary with the men who

thirds of the States was thus had. On a former occasion, several of the States were induced, from peculiar circumstances, to relinquish for a time their right in favor of a particular case—I allude to the first establishment of the Bank of North America. If this had been intended to decide this very important question, without any reservation of their power in other cases, they would have expressed it in the most positive and unequivocal manner.

Sir, it may be asked, how did the Congress, whilst acting under the “Articles of Confederation,” incorporate the Bank of North America, though their powers were no more extensive than those of the present Congress? We shall not lose by this investigation—they declared that “the exigencies of the United States rendered it indispensably necessary that such an act be immediately passed,” and, at that period, the Board of War confessed they had not money sufficient to pay the expense of forwarding an express to the Commander-in-Chief of the Army! Notwithstanding such urgent necessities on the part of the General Government, they were too conscious of the rights of the States to attempt an usurpation of authority, or to pretend to force this act without their sanction; accordingly, we find the resolution by which this bank was established followed by another, which recommended to the Legislature of each of the States the necessity to pass such laws as they judged requisite for giving the ordinance, by which the subscribers to the Bank of North America were incorporated, its full operation; every provision in the charter of this bank, to have full effect, was recommended to the Legislatures of the several States for their approbation. (*See Journals of Congress for 1781, vol. 7th, p. 257 and 258.*)

It is a well known and an important fact, that the subscribers to the Bank of North America did not rest satisfied of the authority of Congress to incorporate them; subsequently to the original act of incorporation, they accepted from the Legislature of Pennsylvania a charter by which their privileges were very much abridged.

Some maintain, the States having made it penal to pass counterfeits of the notes of the United States’ Bank, is in proof of their recognising the constitutionality of the institution. No one will pretend, that these laws were intended other than to guard the people against fraud. These statutes were enacted without any connexion with or reference to the principle, upon which the original act was founded. It is but too well known, notwithstanding these salutary provisions, that counterfeit bank notes of every denomination are in

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of the General Government. A friend from New York, (Mr. Fisk,) said he "would demonstrate that this institution was *indispensably necessary* to the fiscal concerns of the Government." I confess if he could do this, he would go far to remove an important difficulty. If there be higher authority, whereon to rely for his proofs, than the officer who is at the head of your Treasury Department, he might have succeeded. I pledge myself upon the statements of this officer to demonstrate, that this bank is not even *necessary* for the fiscal operations of the Government. Upon this plea, it is attempted to be justified by the seventeenth article of the eighth section of the Constitution of the United States, which gives to Congress the power "to make all laws which shall be necessary and proper for carrying into execution" the several specific powers delegated to Congress by the States. I never did doubt for a moment the *convenience* of a bank to the moneyed transactions of the Government. I was often induced to believe, that a bank, *sanctioned by the General Government, was necessary* for these purposes. I am now confirmed in a very different sentiment by the Treasury report, made the third day of January, 1811. In the eleventh page of that report we are told, it is one of the duties which are assigned to a clerk in the Treasurer's office, to keep a "bank cash book, wherein an account is opened with every bank in which the United States have money deposited. In 1798, the number of these were five; they are now augmented to twenty." The establishment, constituting the United States' Bank and its branches, consists in all of nine banks; consequently, by the statement just made, it is proved the Treasury Department has been doing business with eleven banks, other than those sanctioned by Congress. The same report states, that this business is transacted in all the banks upon precisely the same plan. We have never been told of any losses having been sustained in any of them. Why then pretend, that it is impossible to transact this business through the agency of the State banks, when we have the best authority for asserting, that this has been done already in a majority of cases with the greatest success, facility, and certainty? That no advantages, which are peculiar, can be derived to the nation from the United States' Bank, as respects the collection of the revenue, the safe-keeping of its specie, or the transmission of its moneys from place to place, will be made evident by the same excellent authority. It is there stated, that considerable sums, to the credit of the Government, are deposited in the State banks, even in cities where the mother bank and its branches are situated. On the seventh of January

Bank of Pennsylvania occur from the payments which are made for public lands into the banks of Ohio and Kentucky; from these it is transmitted to the branch bank of Pennsylvania at Pittsburgh, and thence it passes to the Bank of Pennsylvania in the city of Philadelphia, where it remains subject to the drafts of the Treasurer. From this we perceive that collections and transmissions of money for the benefit of the Government are made without the aid of the United States' Bank or its branches, and that through a considerable extent of country, from one extremity of the States to the other. After this will any one pretend to urge the absolute necessity of the United States' Bank?

It is said, all agree that banks are necessary for the collection of taxes, but that of the United States is not absolutely necessary for this purpose, since these operations can be and have been performed for the General Government by the State banks. Sir, I deny the position, and will maintain that for this purpose no bank whatever is required. I will ask gentlemen who maintain this doctrine, to name to me the banks which are employed to collect the taxes which are levied by the States? I know of none, and I believe it impossible to point out a single instance where the States make use of their agency.

Sir, I will for a moment permit myself to suppose, notwithstanding the well founded objections to the establishment of a bank under the authority of the General Government, Congress shall nevertheless deem it expedient to renew the charter of the present United States' Bank, or establish, what some may fancifully reconcile to themselves by the title of a National Bank; it then becomes a question, how the States will receive the act? whether they cannot render its provisions abortive? That many of the States are hostile to a bank, authorized by the General Government, is evident from numerous facts; for proofs we may refer to the acts of the Georgia Legislature, by which the bank capital at the branch at Savannah was made liable to taxation. North Carolina has taxed the capital of her banks—the Legislature of New Jersey passed but a single act at the last session, that was to levy a tax on bank capital. No one can pretend that the disposition of Virginia or Maryland is very favorable to a pretended National Bank. I can state upon the best authority, that it was a subject of consideration with the Legislature of Pennsylvania, during the last winter, to tax the capital of the mother bank in Philadelphia; they did not proceed, because, they relied on the refusal of Congress to renew the present charter of the United States' Bank.

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such of their immediate citizens as have invested their capitals in the stock of State banks. A partial taxation is contrary to the spirit and letter of our constitutions. The States having the right to tax the institutions which you may sanction within their jurisdiction, they have it in their power to render inoperative the statutes which you may enact on this subject—they may tax to an amount which shall equal the dividends arising upon the capital. Who can pretend that banks will do business without the prospect of an handsome profit? Thus disposed, the States may place the United States in a very unpleasant situation. Let us avoid every possible source of discord. The General Government may be reduced to the dilemma, either to relinquish a pretended right, or to pay tribute to the States, to permit them to exercise an authority which is unquestionably an attribute of sovereign power. This would constitute an epoch in the political annals of our country. I hope such absurdities will not be committed. We may avoid them, by a strict compliance with the principles of the Constitution of the United States.

The Committee rose, about four o'clock, and obtained leave to sit again.

FRIDAY, January 18.

A motion was made by Mr. FISK, that the House do now adjourn; and the question being taken thereon, it was determined in the negative—yeas 6, nays 59.

On motion of Mr. BACON, the House proceeded to consider the resolution submitted by him on the 31st ultimo; and the same having been again read, was concurred in.

Mr. DAWSON presented to the House a report of the Secretary of War, to the Chairman of the Committee on that part of the President's Message which relates to land forces and fortifications, and of moneys required on account of fortifications during the present year.—Ordered to lie on the table.

Mr. MORROW, from the Committee on the Public Lands, to whom was referred the bill from the Senate "to authorize the surveying and making of certain roads in the State of Ohio, as contemplated in the Treaty of Brownstown, in the Territory of Michigan," made a report; which was read, and, together with the bill, committed to a Committee of the Whole on Monday next.

Mr. PITKIN presented a petition of the merchants of New Haven, in the State of Connecticut, to the same effect with the petition of merchants of New York, presented the 13th ultimo; which

taken off;" and having first asked the decision of the Chair thereon, Mr. SPEAKER decided that it was not in order to make the said motion with open doors.

From which decision of the Chair, an appeal was made to the House; and, on the question, "Is the decision of the Chair correct?" it was resolved in the affirmative—yeas 76, nays 38.

Mr. SHEFFEY then suggested that he had some communications to make which required secrecy. On which, the galleries were cleared and the doors closed; and having remained so for some time, were again opened.

NAVAL ESTABLISHMENT.

Mr. FISK moved that the House do come to the following resolution:

Resolved, That a committee be appointed to inquire into the expenditure of moneys appropriated for the Navy Department since the 1st of January, 1804; and also into the situation and management of the navy yards belonging to the United States; and that they report thereon to the House.

Mr. SWOOPÉ moved to amend the said resolution by striking out the words *appropriated for the Navy Department since the 1st January, 1804, and also into the situation and management of the*, and the words *belonging to the United States*; and to insert the words *at the* before the words *navy yards*, and the words *in Washington, from the establishment thereof*, after the said words.

Mr. HAVEN moved to amend the said amendment, by striking out the words *in Washington*, and inserting the words *in the United States*; and the question being taken, it was determined in the negative.

A division of the question on Mr. SWOOPÉ's amendment was then called for by Mr. FISK; and, on the question to strike out, it was determined in the negative.

The resolution was then concurred in as originally proposed; and Mr. FISK, Mr. BASSETT, Mr. MILNOR, Mr. HAVEN, and Mr. KENAN, were appointed the said committee.

DISTRICT OF COLUMBIA.

Mr. VAN HORN offered the following resolution:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of establishing a government for the said District, and that they have leave to report by bill or otherwise.

Mr. TALLMADGE objected to giving leave to report by bill. He had no objection to the inquiry, but he was not willing, on a subject with the merits of which he was so little acquainted, to give leave to report by bill. He therefore moved

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Mr. LEWIS said that, with the gentleman from Connecticut, he should prefer a detailed report. He had heard of no application to the House from any part of the District for a Legislature, nor did he see the necessity of it; but he had no objection to vote for an inquiry, though he had objection to authorizing a committee to report by bill.

Mr. TALLMADGE'S motion was carried—43 to 30.

Mr. VAN HORN, considering the agreement of the House to the alteration just made in his motion, as a virtual rejection of his proposition, asked and obtained leave to withdraw his motion.

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The House again resolved itself into a Committee of the Whole on the bill to renew the charter of the Bank of the United States.

Mr. BURWELL'S motion for striking out the first section being still under consideration.

Mr. P. B. PORTER.—Mr. Chairman: As this bank has excited so extraordinary an interest in every part of the United States, and particularly in the State which I have the honor to represent; as I am apprehensive, from what took place yesterday, that I shall be found, on this question, in opposition to a majority of my colleagues; and, (what will always be an imperative motive with me) as I think this bill aims a deadly blow at some of the best principles of the Constitution, I feel it my duty to state to the House the grounds on which I shall be constrained to vote for striking out the section now under consideration.

I acknowledge that I had not, until lately, paid any particular attention to the question of the constitutionality of this institution. I stand, therefore, in this respect, on safer ground than the respectable member from North Carolina, (Mr. MACON,) for I have no reason to suspect myself of any long-rooted prejudices on the question. The Bank of the United States was established at a time when I was not in the habit of troubling myself with such questions. I had been accustomed to think of it as an institution, the constitutionality of which was conceded by common consent. But, sir, when the question was again stirred, I felt it my duty to give it a thorough investigation before I should sanction it by my vote. I have given it, if not a thorough, at least a candid and impartial examination; and the result has been, a full conviction that we have no right to incorporate a bank upon the principles of the bill on the table, or rather, upon the principles of the original charter, which this bill proposes to renew. The ground of my objection is, that it assumes the exercise of Legislative pow-

a few obvious truths which it furnishes, I have found that those gentlemen who have professed to understand them best, have differed most. As I propose to confine myself to the Constitutional question solely, I hope I shall be allowed to take a little broader range on this point, than has been taken by the gentlemen who have preceded me.

I am aware how ungracious Constitutional objections to the powers of this House are with those, and there are many such, who believe that the powers of the Federal Government are, at best, too contracted; and who would be glad to see all the State rights merged and sunk into a consolidated government. Whatever may be my speculative opinions on this subject, I can never be influenced, by motives of expediency, to swerve from my allegiance to the Constitution. This sentiment is indelibly fixed on my mind, and I trust it is a common one to the members of this Committee. That, in adhering strictly to the obligation we have taken, to support the Constitution of the United States, we not only perform a sacred duty to ourselves, but we render a better service to the real and permanent interests of our country than we could possibly render by a departure from that obligation; even though that departure were to avert so serious a calamity as a general bankruptcy—a calamity which, in order to alarm the timid, has been held out as the inevitable consequence of a refusal to renew this charter.

I should be surprised at the general acquiescence which seems to have been yielded to the constitutionality of this institution, did I not believe that others had been as superficial in their examination of the subject as I had myself. When objections are made to the constitutionality of a law, the people, in the cursory views which they are accustomed to take of such objects, are apt to adopt, as the tests of its constitutionality, the powers of the State and Federal Governments collectively; and if they find nothing in the law offensive to the principles of civil liberty, nothing uncongenial with the spirit of a Republican Government, they rest satisfied, and do not trouble themselves with nice distinctions between the powers peculiar to the one or the other of these Governments. Such reasoning would, however, ill become the sagacity of this House.

One of the most serious dangers with which our Government is threatened, and it is a danger growing out of the very nature and structure of the Government itself, consists in its tendency to produce collisions between State and Federal authorities. The Federal Government, as was observed by my learned colleague (Mr. MITCHELL)

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perio as of the *imperium*, we ought to act with great circumspection and delicacy in the assumption of powers which do not clearly belong to us. It is better to forego the exercise of powers to which we are entitled, if the exercise of them is not very important, rather than hazard the assumption of doubtful ones, the fatal consequences of which my honorable friend from Virginia (Mr. BURWELL) has so justly deprecated.

The great line of demarcation between the powers of the State and Federal Governments is well understood. The powers of the State Governments extend to the regulation of all their internal concerns: those of the Federal Government to the management of all our external relations—external as regards the individual States, as well as the States in their collective capacity. The general ideas upon which our Republic is founded, are these: That small territories are better adapted to the successful administration of justice than large ones. In a Republic, where the people are the sovereigns and source of power, it is important that, in order to enable them to execute this power discreetly, they should possess correct information in relation to the character and conduct of their rulers, and in relation also to the character of the measures which they pursue, or ought to pursue; and this information is better attained in a small than in a large territory. The individual States have therefore reserved to themselves the exclusive right of regulating all their internal, and, as I may say, municipal concerns, in relation both to person and property. But a single State may be inadequate to its own protection against foreign violence; it may also be unable to enforce the observance of proper rules and regulations for carrying on its foreign trade and intercourse. The Confederacy of the States is therefore formed for the purpose of attaining these two objects, namely, the regulation and protection of the trade and intercourse of the States with each other and foreign nations, and their security against foreign invasion. It has some other objects in view of minor consequence, and immediately connected with these principal ones. The Constitution of the United States is the basis of this confederacy; and it is only necessary to read the Constitution to perceive that it is nothing more than a delegation of specific powers for these specific purposes, and that the general sovereignty of the States over their respective territories is expressly retained by the States.

But, sir, independent of these specific powers and duties of the Federal Government, it has another and distinct set of powers and duties to perform and execute. The national domain, as

authority for the exercise of this sovereignty. The powers of Congress, then, in relation to these territories, include the powers of both the Federal and State governments, in relation to the States. I have adverted to this branch of the powers of the Federal Government as a means of dispelling the obscurity which has been thrown over the Constitutional question, to which I shall soon come, by confounding the powers of Congress over the States, with their powers over the Territories. Arguments, to which I shall have occasion to advert in the course of my observations, have been used to justify the exercise of particular powers within the limits of the States, from our acknowledged right to and practical exercise of similar powers within the Territories.

In discussing Constitutional questions, then, we lay down these axioms:—That in relation to the territories, the powers of Congress are supreme and exclusive; that in relation to the States, they are specifically defined and limited by the Constitution—and that we have no right to exercise, within the limits of a State, any power as resulting from the general rights of sovereignty; because that sovereignty belongs to the States and to the people, and not to the Federal Government. To show that these two last positions are correct, I will read the tenth article in the amendment of the Constitution: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people."

As then, the incorporation of this bank involves the exercise of Legislative powers within the jurisdiction of the States, in relation to the rights of property between the citizens of those States; and as no power to incorporate a bank, *eo nomine*, is to be found in the Constitution, it would seem sufficient for us to rest the argument here, by a mere denial of the power, and to call on the advocates of the bank to show its constitutionality. An attempt to prove this constitutionality has been made—not, however, sir, by arguments advanced by gentlemen on the other side of the House in their places, (for they have, so far, observed, and I understand that they will continue to observe, a profound silence on this question,) but by arguments which have been gratuitously introduced, by the agent of the bank. I allude to the pamphlet which has within a few days past been printed and distributed among the members, containing the celebrated argument of General Hamilton, "on the constitutionality of a National Bank." As that pamphlet is *de facto*, if not *de jure*, before the Committee, I will, if the Committee will indulge me, attempt to examine some of the

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such repetitions. If I shall be so fortunate as to throw a single new ray of light on this important question, I shall feel amply remunerated for my trouble, and I shall think the time of the Committee not altogether misspent.

The first argument in this pamphlet is founded on the sovereignty of the powers of Congress. The Federal Government is said to be sovereign as to all the objects for which that Government was instituted. A sovereign power includes, by force of the term, a right to all the means applicable to the attainment of the ends for which that power is given; and therefore Congress may, in virtue of their sovereign power, create incorporations for attaining the ends or objects of those powers.

This argument is founded on what the logicians call *petitio principii*, or begging the question. The proposition, that the Government is sovereign, is assumed, to prove that it possesses the attributes of sovereignty: or, in other words, the fact of sovereignty is assumed, to prove that sovereignty. If the position that the powers of this Government are sovereign as to all the objects of them, be proved, I will concede the consequence, to wit: that we have a right to establish corporations to attain these objects—but I deny the fact of sovereignty. The acts of Congress, it is said, are declared by the Constitution to be the supreme law of the land: and the power which can make the supreme law of the land, is necessarily a sovereign power. But I deny that this is a correct definition, or exposition of sovereignty. It is not the high nature of an act, nor the authority of the act, that stamps the character of sovereignty on him who performs it. The sheriff of a county who puts a man to death, under the sentence of the law, executes an act of as high import and authority as human power can execute; and yet the sheriff of a county is not therefore a sovereign. His authority is a mere delegated authority—his act is a mere ministerial, mechanical act. The idea of sovereignty imports the exercise of discretion—of judgment—of will. It is of the very essence of sovereign power, that you may execute that power, or not execute it—that you may execute it when you will, and how you will. A sovereign power, as to any object, includes a right to any means, and all the means applicable to the attainment of the object. But, sir, do Congress possess sovereign powers, or, what is the same thing, discretionary means, as to the attainment of the objects of this Government? No, sir. The Constitution is not a general authority to Congress to attain the objects for which the Government was established; but it is an enumeration of the

authority of this Government depends. The powers of the Federal Government are mere delegated chartered authorities; and in the exercise of them we are tied down to the letter of the Constitution. We have, to be sure, a certain latitude of discretion allowed us, within the letter and pale of the Constitution; and so far we may be said to possess a sort of limited qualified sovereignty. But the Constitution is the standard by which to measure the quantum and extent of our sovereignty. And our sovereignty, which is the result of the powers given in the Constitution, is not the standard by which to measure the Constitution. The Constitution is the true bed of Procrustes—and our sovereignty, however unwillingly we may yield it, must be the victim.

Another argument, which is rather an argument to the favor than to the right of this bank, is, that it is an innocent institution; that, although its erection involves the exercise of legislative powers within the States, it does not abridge or affect the rights of the citizens, as secured to them by the laws of those States. A corporation, it is said, is a fiction of the law, a mere political transformation of a number of individuals from their natural into an artificial character, for the purpose of enabling them to do business to better advantage, and on a more extended scale; but, that when this political association, this legal entity, is once formed, it becomes subject to the laws of the State in which it happens to be placed.

I know, sir, that there is nothing formidable in the abstract idea of a corporation. It is a mere phantom of the imagination, invisible, intangible, and, of course, innocent. But, sir, when the legal effects of this incorporation are to invest the individuals whom it associates with privileges and immunities to which they were not before entitled; when this legal fiction is interposed to shield certain individuals from the liabilities to which they would be subject as ordinary citizens, it then becomes a matter of important and serious consequence. What are some of the legal effects of this incorporation?

One of its most obvious and distinguished characteristics is, that it exempts the private property and persons of the stockholders from all liability for the payment of the debts of the company. By the laws of every State in the Union, every man is, I believe, liable for the payment of his debts, to the full amount of his private fortune; and, in case that fortune prove insufficient, his personal liberty is at the disposal of his creditor; at least to a certain extent. Is not, then, the exemption from these liabilities an important immunity? Is it not an exclusive privilege secured to

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law be what it is said to be, and what I believe it to be, *summa ratio*, then, I pronounce this doctrine not to be law; for nothing can be more preposterous in principle than to say, that a man may, by his own act, avoid the force of an obligation which the law has made universal and unqualified. If a man owes a debt, acknowledges he owes it, and has received a consideration for it, the law has prescribed the nature and extent of his liability to pay it; and it is not for him to say that it shall only be paid out of a certain fund, or particular part of his property, and no other. When men contract a debt jointly, the legal obligation to pay it extends as well to the persons and separate property of the individual partners, as to their joint property.

Another feature of this incorporation is, that it authorizes the stockholders to take usurious interest for their money. By the provisions of the law, the bank may issue notes and make discounts to double the amount of their capital stock; and, in addition to that, to the amount of any moneys which may happen to be deposited in their vaults for safe-keeping; and this, too, independent of the debts created by these deposits. The bank, then, may, and in fact, in many instances, does draw an interest on three or four times its capital. Every State in the Union has laws regulating the rate of interest, and in most of the States this rate is fixed at six per cent. a year. By these laws it is made penal for a man to receive more than six per cent interest for the use of any sum of money which, by a loan, he puts at hazard, and the use of which he deprives himself of. Now, sir, this bank is permitted, contrary to those laws, to draw an interest on twenty or thirty millions of dollars, when, in truth, the whole extent of its responsibility, the whole sum which it puts at hazard, and the use of which it foregoes, is only its original stock of ten millions. In answer to this, it will be said that an individual may, by issuing notes to an amount greater than his property, legally receive an interest on a capital which he does not possess. But it must be recollected, in case of the individual, that, although he may not at the particular time possess a property adequate to the payment of his debts, yet that all the property which he may subsequently acquire, will be liable for the payment of those debts; and what is more, sir, his personal liberty is always put in jeopardy. In this point of view the liability and the hazard of the individual may fairly be said to be coextensive with the whole amount of the capital on which he draws an interest; and which is often the case with the bank.

This bank incorporation possesses other qualities at war with the laws of the several States:

the payment of debts; and when it authorizes the taking of usurious interest. I lay it down, then, as a position which cannot be controverted, that the granting of this charter is not only an interference with the municipal regulations of the several States in relation to the rights of property; but that it is an infraction of the rights of individuals as secured by those regulations.

But it is contended, that a right to incorporate a Bank of the United States is delegated to Congress by the Constitution; and five or six different provisions of the Constitution are referred to as giving this right. It is said that it is implied in the power to lay and collect taxes, in the power to borrow money, in the power to regulate trade and intercourse between the several States, in the power to provide for the general welfare, and in the power to make all needful rules and regulations respecting the territorial and other property of the United States. The very circumstance of referring this right to many different heads of authority is, in itself, conclusive evidence, that it has no very direct relation to any of them. For it can scarcely be imagined, that the single act of incorporating a bank can be at the same time anything like a direct execution of so many and such distinct and independent powers. But I will examine these provisions separately.

Before I proceed, however, I will premise that all the arguments in support of the right to incorporate a bank, as deducible from the provisions of the Constitution itself, are built up by the aid of the clause of the Constitution, which has been sometimes called "the sweeping clause." I allude to the clause which declares that Congress shall have the right to pass all laws necessary and proper for the carrying into execution the delegated powers. All the powers in the Constitution are given for certain ends or objects. But each power is not a *general* authority to attain a particular object, and comprehending, of course, *all* the means or powers applicable to its accomplishment; but, in most cases, it is a specific means for effecting some particular end, and all other means or powers, (for means and powers are the same thing,) conducive to the same end, are expressly excluded, by the restrictive clauses of the Constitution.

The mode of reasoning adopted by General Hamilton, and the other advocates of implied powers, is this: They first search for the end or object for which a particular power is given; and this object will be an immediate or ultimate one, as may best suit the purpose of the argument. Having ascertained the end or object, they abandon the power; or, rather, they confound the *power* and the *object* of it together, and make the

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terms; the Constitution gives to Congress a right to make all laws necessary and proper for attaining the ends or objects for which the various powers in the Constitution are given.

I beg leave to read a passage from this pamphlet: "The relation between the measure and the end; between the nature of the means employed towards the execution of a power, and the object; must be the criterion of constitutionality." Here then is the axiom—now for the application of it. The Constitution gives to Congress the power to levy taxes, and also the power to borrow money. But the establishment of a bank is neither levying taxes nor borrowing money; nor is the law incorporating the bank, a law to levy taxes, or a law to borrow money. But the immediate end or object, for which these two powers were given, was, to enable the Government to raise a revenue; and a bank may promote this object. Then, sir, by a dexterous application of the argument which I have stated, the fallacy of which consists in the sudden and unobserved transitions which are made from the power to the object, and from the object back again to the power, they prove that the establishment of a bank is in execution of the powers to lay taxes and to borrow money. I will now, sir, proceed to examine the particular provisions of the Constitution which have been relied on, and to place the subject in some different aspects.

In the first place, then, it is contended that the right to incorporate a Bank of the United States is included in the power to lay and collect taxes. And what is the argument by which this position is maintained? Why, sir, it is said that the law, by creating bank paper, and making that paper receivable in payment for taxes, increases the circulating medium in which taxes are paid, and of course must facilitate the payment of them. That whatever facilitates the payment of taxes, facilitates also the collection of them; and whatever aids or facilitates the collection of taxes, is a means for their collection. And therefore, the incorporation of a bank is in execution of the power to lay and collect taxes.

No man, sir, ought to complain of the weakness of a Government, whose powers may be *reasoned up* by logic like this. Amidst the infinite variety of relations, and connexions, and dependencies and analogies by which all human transactions are allied to each other, he must be a weak politician who cannot, by hooking together a chain of implication like this, justify any and every measure of political policy or economy, as a means of executing some of the powers with which this Government is intrusted. Take this latitude of implication or construction,

show that it would tend to promote the general prosperity of the country. And in showing this he would show its constitutionality; for it is demonstrable that whatever would promote the general prosperity of the country, would, and for that very reason, facilitate, in some greater or less degree, the payment of taxes; and might therefore be justified as a means for the collection of taxes.

But, sir, the Constitution, as I have said before, and I must repeat it again, for this is the radical source of all the error on this subject—the Constitution of the United States is not, as such reasoning supposes it to be, a mere general designation of the ends or objects for which the Federal Government was established, and leaving to Congress a discretion as to the means or powers by which those ends shall be brought about. But the Constitution is a specification of the powers or means themselves by which certain objects are to be accomplished. The powers of the Constitution, carried into execution according to the strict terms and import of them, are the appropriate means, and the only means within the reach of this Government, for the attainment of its ends. It is true, as the Constitution declares, and it would be equally true, if the Constitution did not declare it, that Congress have a right to pass all laws necessary and proper for executing the delegated powers; but this gives no latitude of discretion in the selection of means or powers. A power given to Congress in its Legislative capacity, without the right to pass laws to execute it, would be nugatory; would be no power at all. It would be a solecism in language to call it a power. A power to lay and collect taxes, carries with it a right to make laws for that purpose; but they must be laws to lay and collect taxes, and not laws to incorporate banks. If you undertake to justify a law under a particular power, you must show the incidentality and applicability of the law to the power itself, and not merely its relation to any supposed end which is to be accomplished by its exercise. You must show that the plain, direct, ostensible, primary object and tendency of your law is to execute the power, and not that it will tend to facilitate the execution of it. It is not less absurd than it is dangerous, first to assume some great, distinct and independent power, unknown to the Constitution, and violating the rights of the States; and, then, to attempt to justify it, by a reference to some remote, indirect, collateral tendency, which the exercise of it may have towards facilitating the execution of some known and acknowledged power. This word *facilitate* has become a very fashionable word in the construc-

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to establish banks, involving in its exercise the regulation of the internal domestic economy of the States, is another and totally distinct thing; and the one is therefore not included in the other.

Again, sir, it is contended that the right to incorporate a bank is implied in the power to regulate trade and intercourse between the several States. It is said to be so, inasmuch as it creates a paper currency, which furnishes a convenient and common circulating medium of trade between the several States. Money, sir, has nothing more to do with trade, than that it furnishes a medium or representative of the value of the articles employed in trade. The only office of bank bills is to represent money. Now, if it be a regulation of trade, to create the representative articles or subjects of trade, *a fortiori*, will it be a regulation of trade to create the articles or subjects themselves. By this reasoning then you may justify the right of Congress to establish manufacturing and agricultural companies within the several States; because the direct object and effect of these would be, to increase manufactures and agricultural products, which are the known and common subjects of trade. You might, with more propriety say, that under the power to regulate trade between the States, we have a right to incorporate canal companies; because canals would tend directly to open facilitate and encourage trade and intercourse between the several States; and, in my humble opinion, sir, canals would furnish a much more salutary, direct and efficacious means, for enabling the great body of the people to pay their taxes, than is furnished by banks. But, sir, these various powers have never been claimed by the Federal Government; and, much as I am known to favor that particular species of internal improvement, I would never vote to incorporate a company for the purpose of opening a canal through any State, without first obtaining the consent of that State, whose territorial rights would be affected by it. There can be no question, but canal companies, and agricultural companies, and manufacturing companies, and banking companies, may all tend, more or less, to facilitate the operations of trade; but they have nothing to do with the political regulations of trade; and such only come within the scope of the powers of Congress.

But, it is again said, that the right to grant this charter is included in the power to borrow money. The right is attempted to be deduced by a train of reasoning similar to that employed in relation to the provisions which I have already noticed—by forming a string of implications, by which you prove that a power to act in certain cases, and in relation to certain subjects, implies

lend and a power to borrow had any relation to each other—much less could he conjecture, that a power to borrow, and a power to create the ability to lend, mean the same thing. A plain unsophisticated man, on reading the Constitution, would say, that the power to borrow, necessarily, and by force of the term, pre-supposed the existence of the ability and disposition to lend; and that it could not be exercised unless such ability and disposition should actually exist. But the favorite doctrine is, that all powers are given for particular ends, and include all the means applicable to their attainment. Here the end is to borrow money; to borrow honestly if we can, but—to borrow. The ability to lend is a necessary means or ingredient toward perfecting the execution of the power to borrow. But, sir, let me ask, whether the disposition to lend be not as necessary a means towards accomplishing a loan as the ability? It unquestionably is. And, of course, by the doctrine that the end justifies the means, you may coerce the will to lend—and this too equally, in cases where the ability is created by Congress, and where it is derived from any other quarter. A loan obtained by bringing into fair operation all the implications of this power would be borrowing in an off-handed style. Such a loan, if effected by Bonaparte, we should call robbery. But in this mild Republic, it would be nothing more than the fair exercise of an implied Constitutional power.

I have pursued this argument thus far, merely for the purpose of showing the absurdities into which this doctrine of implication will lead us. But suppose, sir, that the argument of the gentleman on the other side of the question be correct, to wit: that the power to borrow implies a right to furnish the ability to lend. What, I would ask, is the probable fact, as to the facilities which this bank will afford the Government in borrowing?

It will be conceded that we shall have no occasion for borrowing, except in case of war; and if we have a war, the probability is, that that war will be with Great Britain—I say this, not as a party man, sir, but because the interests of that nation, from her situation, and her rival pursuits, will be much more likely to come in collision with ours, than those of any other Power. Now it is a fact, in evidence before the Committee, that more than one-half of the stock of this bank belongs to British subjects: and although, as foreigners, they can have no direct agency in the affairs of the bank, yet we well know that through the instrumentality of their friends and agents, of whom there are, unfortunately, too many in this country, they may completely control its

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up the sources from which the Government might otherwise calculate to derive supplies? But, sir, this has little to do with the question of constitutionality, to which I will again return.

Another ground upon which the constitutionality of this institution has been attempted to be supported, is, that it is necessary to the regular and successful administration of the finances. There is no question, but the bank and its branches afford convenient places for the deposit and safe keeping of the public revenue. It is not to be controverted that they also furnish a safe, convenient, expeditious and cheap means for the transmission of moneys from one part of the United States to another, as they may be wanted by the Government; and, if these facilities were not to be attained in any other way, I should say it would afford an argument in favor of a bank. Not a bank infringing and violating the rights of the States; but, a bank upon principles consistent with those rights.

But, sir, is there not, in every State in which there is a branch of the United States' Bank, also one or more State banks, of equal respectability, and of equal security—at least to the extent of any sum for which they are willing to undertake? These State banks may be used as depositaries for the public moneys and they will be equally safe and convenient. And, if you will give to these State banks the advantages of these deposits, as you have hitherto given them to the United States' Bank, they will furnish means for the transmission of moneys from place to place, equally safe, convenient, cheap, and expeditious. This object will be attained by connexions which will be formed between the banks of the different States. Such connexions have already in many instances been formed. But they have not been carried to the extent they otherwise would have been, on account of the United States' Bank and its branches; between which there is so intimate and so necessary a connexion.

But, in answer to this, it is said that if the Bank of the United States would be Constitutional without the existence of the State banks, it is equally so with. That a power which is once Constitutional is equally so at all times, and under all circumstances. That a right which must depend for its existence on the will of the State Legislatures, over whom we have no control, is incomplete, and indeed, as to us, is no right at all. This argument is founded on the supposition that the Federal Government is a complete Government, containing in itself all the principles and powers necessary for its own operations, which supposition is wholly false. The

House of Representatives, indirectly, by the same authority. Suppose they should neglect or refuse to make these appointments, can you compel them to do it. No, sir. Can you punish them for not doing it? Not in the least. They may appoint or not, as they think proper; and if they should neglect or refuse to do it, your boasted complete Government would die a natural death, by its own imbecility. It is not fair, then, to say that a power is Constitutional because the Government would be incomplete without it. It is not fair to say, that what would be Constitutional, without the existence of the State governments and their appendages, is equally so with. This would prove that you have a right to appoint your own President, Senate, and House of Representatives. It would go to usurp all the powers of the State governments; for the Government could not be said to be complete without possessing the powers of both Governments combined. Indeed, this Federal Government cannot be said to be complete as to a single power, without all the auxiliary powers of the State governments; for there is not a single act which it can perform without their assistance, directly or indirectly. The very bank law now under consideration is an illustration of this—for how are the provisions of this law to be enforced; how are the debts which it authorizes to be contracted to be collected, but through the medium of the State courts? The doctrine of perfect rights, then, if it prove anything, proves too much. If it proves that, in order to manage your revenues, you may establish banks within the States; it equally proves, that, in order to carry the provisions of your bank laws into execution, you may establish courts and offices within the States for that purpose. I think then, sir, I may fairly conclude, that so long as the State governments furnish you with all the facilities, which you can reasonably require, for conducting your revenues by means of their State banks; so long it will be unnecessary—so long it will be improper—and, therefore, so long it will be unconstitutional to invade the jurisdiction of the States, to establish national banks.

Again. The constitutionality of the bank has been attempted to be maintained by a reference to the phrase in the Constitution, in relation to the power of Congress to provide for the general welfare. I will read the clause in which the phrase is contained: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." This clause has been erroneously

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have a right to establish a National Bank. But, sir, this is a total misconception of the meaning of this clause of the Constitution. Instead of three or four distinct grants of power, this clause contains but one grant of power, namely, the power to raise money by taxes, &c.—and all the subsequent parts of the clause are a mere limitation of this power to raise money; or a specification of the purposes for which money may be collected. That this is not a general authority to Congress to provide for the common defence and general welfare, is instantly discovered by a comparison of this clause with the subsequent part of this section; which consists of a list or enumeration of the specific means or powers, by which Congress may provide for the common defence and general welfare. And it would be unnecessary and absurd in itself, as well as repugnant to the whole spirit and character of this Constitution, to give, first, a general power, and then to delegate specific powers, all comprehended in the general one. Although I do not think there is any ambiguity in this clause, as it now stands, yet, its meaning might, perhaps, be rendered more perspicuous and definite by altering the phraseology so as to read in this way: "Congress shall have power to lay and collect taxes, duties, imposts, and excise, for the purpose of paying the debts and providing for the common defence and general welfare of the United States; but (going on again, sir, with a further qualification of the same power to raise money) all duties, imposts, and excise, shall be uniform throughout the United States." This, then, is merely a right to raise revenue; and, so far as regards the *objects* for which revenue may be raised, the powers of Congress are discretionary; provided those objects come within the description of providing for the common defence and general welfare: But so far as regards the *means* by which these revenues, when collected, shall be applied to their destined objects we must look to the powers of Congress as defined and limited in the subsequent parts of this section. In other words, this clause gives plenary powers to raise money; but it gives no powers—I should say, political powers—in relation to its application and expenditure. The powers of Congress over the money, when collected, in reference to its expenditure, would be the same which an individual possesses over his private property—powers resulting from the nature of property, and as regulated by the laws of the State in which it might happen to be situated. I will illustrate my idea by a case. Suppose the Constitution had given to Congress the power to raise a million of dollars, to provide for a National

power to raise money: and, for the means of applying it, we must search for our power in another part of the Constitution. On doing this we should find that we must erect the university either in the District of Columbia, or in one of the Territories over which we have exclusive jurisdiction; or, in case we should choose to erect it within the limits of a particular State, we must first not only purchase the land, but obtain a cession of the jurisdiction from the State government. The phrase of *providing for the general welfare*, then, is a mere qualification of the power to levy taxes, and can give no authority in relation to banks.

There is one more, and I believe but one more, provision in the Constitution, which is relied on as authorizing the establishment of this bank. It is this: "Congress shall have a right to dispose of and make all needful rules and regulations respecting the territory or other property of the United States." It is said that, in virtue of this provision, Congress have established the Territorial governments, which are corporations of the highest and most extensive nature, exercising political powers over the person as well as the property of citizens of the United States; and that no complaint has been made, that Congress has exceeded its authority, in this particular. Why may we not, then, it is asked, establish corporations to regulate and manage the personal property of the United States, which is coupled in the Constitution with the territorial property? The fallacy of this argument consists in not marking the distinction, which exists in these two species of property, and the consequent powers of the Government over them. The property which the United States possess in the territorial lands is not a mere right of soil, a mere *usufruct*—but it also includes the right of jurisdiction and sovereignty. It is in virtue of this right of jurisdiction, of those sovereign plenary and exclusive powers over the Territories, which I noticed in a former part of my observations, that these corporations or Territorial governments have been established. On the other hand, our revenues are not only personal property, but a qualified property—they are collected for certain objects, and are subject *in transitu* to the local jurisdictions. This argument, then, which is founded on an analogy that does not exist, must fall with the analogy that supports it.

But, Mr. Chairman, my honorable friend (Mr. Fisk) has advanced a new argument in support of the constitutionality of this bank—an argument, not deduced from the provisions of the Constitution itself, but founded on prescription. He tells us that this bank was originally incorporated by a Congress fully competent and qualified to

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doctrine of *prescriptive* Constitutional rights. It may answer in England, where they have no constitution; or where, rather, as they choose to explain it, immemorial usage, or prescription, are evidence of what their Constitution is. It may do in Connecticut—(it is not my design to derogate from the respectability of that State, nor of its institutions)—it may be good doctrine in Connecticut, where ancient customs and *steady habits* are their constitution. But, sir, doctrine should never be tolerated in this House, where every member has a *printed Constitution* on his table before him—a Constitution drawn up with the greatest care and deliberation; with the utmost attention to perspicuity and precision. A Constitution, the injunctions of which, as we, in our best judgments shall understand them, and not as they shall be interpreted to us by others, we are solemnly bound, by our oaths, to obey.

It is true that this bank was originally established by a Congress competent to judge of its constitutionality. It is equally true that a respectable minority of that Congress opposed the passage of the law, on the ground of its unconstitutionality; and if I have been rightly informed, it is also true that the then President, General WASHINGTON, in giving his sanction to that law, did it with more doubt and hesitation, than almost any other act of his Administration.

It is true that subsequent Congresses, of different political complexions, have passed laws enforcing the provisions of the original charter; and that no attempts have been made to repeal it. But it is equally true, that all this might be done away with the most perfect propriety and consistency, although they totally disbelieved in its constitutionality. I need not state to this House, that this is not a law in the ordinary course of legislation—a law prescribing a common rule of conduct for the government of the citizens of the United States at large—liable to be repealed at any time; and the obligations of which would cease with its repeal. This, sir, is not the nature of the law, but it is a law in the nature of a contract between the Government and certain individuals, and the existence of it was extended to twenty years. The moment this contract was made, and its operations commenced, private rights were vested; and it would have been a breach of national faith to have repealed it. The original Congress had the same right that we have to judge of the constitutionality of a law; and having, under that right, passed this law or made this contract, we are bound to carry it, as a contract, into execution. As a contract, every successive Congress, of whatever materials com-

time, and which indeed it is at all times, of the first importance to support, was at stake on the faithful execution of this contract; and it was better to suffer for twenty years, under an unconstitutional law, rather than to attempt so violent a remedy—a remedy which would have crippled the credit of the nation in its infancy.

But, sir, because these were proper considerations with our predecessors and the States, to suffer the continuance of this law, does it follow, that now, when that law has expired by its own limitation, when the obligations of that contract are complied with and discharged, when the national faith is emancipated, that they are motives for us to make a new unconstitutional contract? No, sir. The question now is a question *de novo*. It is a question of conscience in the interpretation of the letter and spirit of the Constitution; unembarrassed by any collateral considerations; and as such, I shall feel bound to vote upon it. It is the province of the Executive and Judicial departments to explain and direct the practical operation of each particular law; and I must submit to the decisions. But the commentaries of courts are not to furnish the principles upon which I am afterwards to legislate. It is to this book, (the Constitution) so justly dear to us all, and not to the books of reports, that we must look, as a guide, to direct us in the path of our oath and our duty.

I believe, sir, that I have gone through, lamely, I know, but I hope intelligibly, with the examination of all the principal arguments, that have been advanced in support of the constitutionality of this law. Having already occupied so much time, I will detain the Committee but a few moments longer.

If the views which I have taken of the subject are correct, these positions may be considered: First, that we have no right to incorporate a bank, unless that right be delegated by the Constitution; for such is the declaration of the Constitution itself. Secondly, that if this right be given by the Constitution, it is included in some of the provisions upon which I have been commenting.

The only question, then, as relates to the Constitution, is, whether we shall, by the passage of this bill, recognise the doctrine of implied or constructive powers. Before we do this, I must entreat every member of the Committee to examine well the consequences of such a recognition. This is not a question about the utility or inutility of a bank; but it is a great question of Constitutional principle. It is, whether we shall consider this Government as the servant and instrument of the people for managing and protecting their

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The great ends or purposes of our Government are the liberty, the security, and the happiness of the people. The raising and management of revenue, the establishment and support of armies, the institution of courts of justice, and the regulation of trade and intercourse between the States and foreign nations, are some of the great means or instruments by which these results are finally produced. There is a natural and ultimate connexion and coincidence between all these great measures or powers of government—they are expressly calculated to aid and assist each other in their operations, and, in fact, form different parts only of one great political machine. Every possible measure of civil policy is expedient, exactly in proportion to its fitness or tendency to promote the combined operation of these great causes or instruments of human happiness and security. But, sir, by the doctrine of implied powers, the constitutionality of every measure is also made to depend on its tendency or fitness to promote the final objects for which these various powers are given; and thus resolves itself into a question of expediency.

From the view we have taken of the arguments in support of the right to incorporate this bank, said Mr. P., we perceive that its constitutionality is not made to depend on the peculiar applicability of the measure to any particular power in the Constitution; for it is equally applicable to half a dozen different powers—but its constitutionality is made to depend on its general tendency to promote the ultimate objects for which these different powers were given. In other words, it is made to depend on its expediency. We speak of implied powers as innocent things—as matters of course. But the idea of express Constitutional powers and implied Constitutional powers, gives us the exact definitions of limited and arbitrary Governments. The final object of both these Governments is the same—the happiness of the people. The only difference between them is, that in the one case the powers or means by which this end is attained, or intended to be attained, are limited and defined; in the other they rest on the discretion or will of the despot—they are all, with him, questions of expediency.

There is another point of view in which this subject may be placed; and in which, it seems to me impossible for the strongest advocates of implied powers to reconcile the passage of this bill. It will not be denied, that the Constitution contemplates the existence of two distinct sets of powers—the one in the State governments, and the other in the Federal Government. That there are certain powers which may be said to belong

internal political economy of the State; it is the power of regulating the rights and relations of property between citizen and citizen of the same State; it is the power of erecting a banking company, in order to facilitate and direct the daily and ordinary operations of trade and industry among the citizens of the same State. Although, then, I say, the power of incorporating a bank might, at first, seem to be implied in some of the powers of the Federal Constitution; yet, when we see that, in its exercise, it goes to obliterate and destroy the great characteristic feature of distributive power in this Republic—when we see that, in its execution, it obtrudes and ramifies itself into all the transactions of domestic economy, which are the peculiar subjects of local or State regulation—we ought, on that account, to reject it.

But, sir, I will conclude by again cautioning my Republican friends, and my worthy colleague in particular, to beware how they familiarize themselves with this doctrine of constructive power. It is a creed, at war with the vital principles of political liberty. The pride and the boast of the American Governments is, that they are the governments of the laws and not of men—that they are the regular and necessary operations and results of principles and powers, established in the moments of cool and deliberate reflection, by thy combined wisdom of the nation; and that they are not the effects of the momentary passion, pride, interest, whim, or caprice of a few individuals collected on this floor.

Little did the framers of this Constitution, when they were so nicely adjusting and balancing its various provisions—when they were so carefully erecting guards and barriers against the encroachments of power and ambition—little, I say, sir, did they imagine, that there lay concealed under the provisions of this Constitution, a secret and sleeping power, which could, in a moment, prostrate all their labors with the dust. Still less, sir, did the people when they adopted this Constitution, with even more caution and scruple than that with which it was formed, conjecture that they were signing the death-warrant of all their State rights. But, once adopt the doctrine that you may travel out of the letter of this Constitution, and assume powers, merely on the ground that they will tend to facilitate the execution of powers which are here given; and you compass, at a single sweep, all the rights of the States; and form the basis of a consolidated Government.

Let the principle of constructive or implied powers be once established, in the extent to which it must be carried in order to pass this bill and

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Edmund Brooke.

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SATURDAY, January 19.

Another member, to wit: from New York, BARENT GARDENIER, appeared, and took his seat.

The SPEAKER having informed the House that he had some confidential communications to make, the galleries were cleared and the doors closed, and, having remained so for some time, were again opened.

Mr. McKIM presented a petition from the mechanics, manufactures, traders, and other inhabitants of Baltimore, and a memorial of the President and Directors of the Baltimore Insurance Company, respectively praying a renewal of the charter of the Bank of the United States.—Ordered to lie on the table.

Mr. GARDENIER presented a memorial of the United Insurance Company of the city of New York, and of the New York Insurance Company, praying a renewal of the charter of the United States Bank.—Ordered to lie on the table.

Mr. MITCHILL presented a petition of John Bioren, W. John Duane, and Roger C. Weightman, praying the patronage and aid of Congress in printing an edition of the laws of the United States.—Ordered to be referred to a select committee.

Mr. MITCHILL, Mr. RINGGOLD, and Mr. SEYBERT, were appointed the committee.

Mr. POTTER presented a petition of the Officers of the Rhode Island Line of the Revolutionary Army, praying that Congress will take their case into consideration, and grant them, and others similarly situated, half pay for life.—Referred to the committee appointed, on the twenty-fourth ultimo, on petitions from other Officers of the Revolutionary Army.

Mr. MITCHILL also reported at large on the petition of John Brumbach and others.

[The petitioners are owners of merchant mills, and complain that they are obliged to pay Oliver Evans for licenses to use his elevators and other machinery, although this apparatus was erected after the expiration of Evans's first patent, and before the granting of his second patent, under the act of Congress of January 7, 1808.]

The report was twice read, and referred to a Committee of the Whole.

EDMUND BROOKE.

Mr. Root, from the Committee of Claims, made a report on the petition of Edmund Brooke; which was read, and referred to a Committee of the whole House on Friday next.

The report is as follows:

That the petitioner claims pay, commutation, and bounty lands, for his services in the Revolution, as first

sufficient to oppose this claim; but, as one of the members of your committee has expressed a desire that a detailed report be made, and as the vote of the House a few days since, on the claim of Edwin C. Brown, seems to have expressed a decided opposition to the efficacy of those acts, they proceed to perform the task assigned them. They are not sure that they can present this case as its original merits would have required. This claim has often been before Congress, and was reported against at the last session; and the committee, before they proceed, cannot but express their regret that the pertinacity of claimants has, in some measure, been encouraged by the apparent success of some supposed fortunate claimants. The committee proceed to investigate the several items of claims in the order in which they are claimed.

1. *Pay.*—By a certificate, dated the 17th of March, 1798, signed "Andrew Dunscomb, late assistant commissioner of army accounts, Virginia," produced as is supposed by the petitioner, and referred to in his petition, are these words: "From an examination of the books in the office of the Auditor of the State of Virginia, it appears that Colonel Duval settled the account of Edmund Brooke, as a lieutenant of artillery, on the 5th day of March, 1784."

2. *Depreciation of pay.*—By the resolve of Congress, of the 10th April, 1780, "the line of the army, and the independent corps thereof," were promised, when the public finances would admit, that the deficiency of their pay, occasioned by depreciation, should be made good; but this provision is not applicable to any but such as were engaged during the war, or for three years, and were then in service. The petitioner does not come within the provisions of this resolution.

3. *Commutation.*—By a resolution of Congress, of the 22d March, 1783, all officers then in service, and who should continue therein to the end of the war, were entitled to receive the amount of five years' full pay, instead of the half-pay for life promised by the resolution of the 21st October, 1780. The latter resolution, from its obvious import, did not make provision for any officers except those then in service or reduced. As the petitioner was not then in service, nor reduced in October, 1780, he could never have been entitled to commutation had he continued in service to the end of the war. It has long since been settled, that the war ended when the troops were disbanded, on the 3d of November, 1783; and there is not sufficient proof that he continued in service until that time.

4. *Bounty lands.*—This subject belongs to the Treasury Department. Had it been the sole prayer of the petition, it is believed it would not have been referred to your committee.

The committee recommend to the House the adoption of the following resolution:

Resolved, That the prayer of the petitioner is entirely unfounded, and ought not to be granted.

PATENT LAWS.

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Public Deposites—Remission of Fines, &c.

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PUBLIC DEPOSITES IN BANKS.

Mr. LOVE said he considered the vote in Committee of the Whole as decisive of the sense of the House against the renewal of the charter of the United States' Bank Company. It was therefore necessary to provide immediately for some other place of deposit for the immense property of the United States in the hands of that company, and that which would be in its hands by the time of its dissolution, if the law was not repealed which made it the duty of the collectors to deposit the custom-house bonds in the hands of that bank and its branches. It was certainly a stake of too great magnitude to suffer it to fall to the hands of the executors of the institution, about to become defunct, over whom no department of Government would have even the semblance of check or control, now said to exist over the corporation itself. It was stated in a report of the Secretary of the Treasury, of the 9th of this month, in consequence of a resolution of this House, that on the 1st of March, there would probably be upwards of \$2,500,000 of specie in the Treasury; nearly the whole of which, it appears, would be deposited in this bank. In the annual report, made on the 12th of December, it is stated that there would be deposited for collection bonds which are deemed good, to the amount of about \$11,000,000, and that the importations after that time would be sufficient to meet the debentures; making, according to this statement, a deposit in all equal to \$13,500,000 on the 1st March next.

But it was obvious, the specie deposit at that time would probably not only exceed, (as stated in the report of the 9th,) but very greatly exceed \$2,500,000; and a small attention to those two reports will show that the estimate of the Secretary was made under the influence of very great caution, in rating the resources of the Government.

In the annual report it was stated, that, on the 31st December, in the year 1810, there would be a probable specie balance of \$2,000,000. This balance was predicated on the statement under the head of "No. 2, last quarter of the year 1810," in which the receipts of that quarter are carried out at \$2,500,000, although in the first part of that report it is stated that it was believed that the net revenue arising from duties would not fall short of \$12,000,000—making, for the last quarter of 1810, the sum of \$4,500,000, instead of \$2,500,000. And, indeed, when the time when importations recommenced is recollected, and that they have from thence to the present been as great of foreign merchandise, if not greater, than at any former period for the same length of time; when

to the 1st of March, of \$7,000,000; from which, deducting two months of expenditure, amounting, for current expenses and interest of public debt, to about \$1,330,000, will leave the sum in specie in the Treasury of \$5,670,000. This sum, with the deposit of bonds, will not be much short of \$17,000,000.

In another point of view, Mr. L. said, it might be important to take immediate steps for the removal of the specie deposited from the United States' Bank. It might aid the banks into which it would be deposited in affording the accommodations which the present state of mercantile resources had made so necessary. This deposit could not be less for some months; and, even after paying the money borrowed from the United States' Bank, (which might as well be done tomorrow as any other time,) would leave a surplus of nearly \$3,000,000 on the 1st of March. Mr. L. therefore submitted the following resolution, which he read, and asked should lie on the table:

Resolved, That it is expedient to repeal so much of an act passed the 10th May, 1800, as makes it the duty of certain collectors to deposit for collection in the Bank of the United States, or any of its branches, the bonds taken by them for the payment of duties. And that it is expedient to provide that the bonds or moneys now deposited in the said bank and its branches may be withdrawn.

REMISSION OF FINES, &c.

Mr. NEWTON reported the following bill:

A Bill to remit certain fines, penalties, and forfeitures.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That all fines, penalties, and forfeitures, incurred in the following description of cases—to wit: first, of vessels which have entered a British port since the tenth June last, or which may hereafter enter such port, having sailed for the same before information of the Proclamation of the ninth of August, one thousand eight hundred and nine, had been received at the port of departure; so far as relates to any forfeiture or penalty which may accrue or have accrued by reason of their having thus entered a British port. Secondly, of vessels which have arrived, either from British ports, or with British merchandise, in the United States, subsequent to the tenth of June last; and also of vessels which may hereafter thus arrive, having sailed for the United States before information of the Proclamation of the ninth August, one thousand eight hundred and nine, shall have been received at the port of departure; so far as relates to any forfeiture or penalty accruing from having arrived or arriving in the United States, from British ports or with British merchandise. And, thirdly, of vessels now owned by citi-

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hereby remitted, any law to the contrary notwithstanding.

The bill was twice read and referred to a Committee of the Whole.

BANK OF THE UNITED STATES.

Mr. SAWYER called for the order of the day on the unfinished business of yesterday—the bill continuing the charter of the Bank of the United States.

Mr. FISK moved that it should lie on the table. This was disagreed to—57 to 46.

The House then proceeded to consider the said unfinished business, and the question to concur with the Committee of the whole House on striking out the first section of the bill to continue, for a further time, the charter of the Bank of the United States, being stated—

Mr. DESHA said: Mr. Speaker, the question is on a concurrence with the Committee of the Whole, in striking out the first section of the bill that contemplates a renewal of the charter of the Bank of the United States; or, in other words, whether we will foster a viper in the bosom of our country, that will spread its deadly venom over the land, and finally affect the vitals of your republican institutions; or, whether we will, as it is our duty, apply the proper antidote, by a refusal to renew the charter, thereby checking the cankering poison, the importation and dissemination of foreign influence, that has already brought our Government almost to the brink of ruin. Sir, I am opposed to the renewal of the charter, on Constitutional ground, as well as on the score of expediency. I view it as being directly at war with not only the letter but the spirit of the Constitution, and replete with principles incompatible with republicanism. As to the constitutionality, the ground that I intended to have occupied was taken from me by the gentleman from New York, who spoke yesterday, (Mr. PORTER,) and I will say ably managed. The points he made I consider incontrovertible, and the arguments deduced from them unanswerable; consequently, as I deem the Constitutional question nearly exhausted, I shall but barely touch upon it. The States, sir, from the time they determined to be free, were particularly guarded against the adoption of any measure that could in the most remote degree lead to aristocracy or consolidation. Let gentlemen examine that instrument, the pledge of union—I mean the Articles of Confederation, they will find it couched in cautious language; they will find that the framers of that instrument were particularly guarded against vesting powers in the General Govern-

ment, they will find it expressly provides, that each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by the Articles of Confederation expressly delegated to the United States in Congress assembled. This, sir, I show to prove, that from the time the States determined to shake off the shackles of despotism, the power of granting charters of incorporation was never intended to be given to the General Government.

Sir, those gentleman who are the advocates of this measure will not pretend, that the power to grant charters is expressly given by the Constitution; and, sir, they must be well apprized that such a power was intended to be given. This fact ought not to be lost sight of. Did not Mr. Madison urge in energetic language, in 1791, on the floor of Congress, that the power to grant charters of incorporation was in the original plan, reported by the committee to the Convention among the enumerated powers delegated in the eighth section of the first article of the Constitution, but that after three days deliberation, and ardent debate, it was expunged, as a power dangerous and improper to be vested in the General Government? It is on remote constructive powers that gentlemen must bottom this measure; and in my mind, there they are cut short by the 10th article of the amendment to the Constitution of the United States, where it expressly provides, that, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Are not these prohibitory words strongly and clearly expressed? Sir, I defy gentlemen to lay their finger on any clause of the Constitution that would justify the granting monopolies, or exclusive privileges; no, sir, it cannot be done, unless they lay hold of the horrid doctrine of implication, a doctrine as absurd as it is dangerous, particularly when you have a specific instrument for your guide, and one which you have taken a solemn obligation to support inviolate. I had hoped that the doctrine of implied powers had long since been exploded. Ever since the reign of terror, ever since the Federal gentlemen, under the head of constructive powers, adopted the alien and sedition laws, the people of the United States, in whom the powers of Government rightfully rest, signified their disapprobation of the doctrine of implication, in forcible language, by hurling the then majority out of power. Sir, if you subscribe to this doctrine, the barriers of your Constitution are broken down; it will ultimately become a dead letter, you will have nothing to re-

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particularly when I am acting under the solemnity of an oath? No, sir, while I have the honor of a seat on this floor, and any measure is about to be adopted, which in my opinion conflicts with that instrument that I am sworn to support, I will raise my voice against it, and if possible check its progress.

But, sir, we are gravely told, that it is expedient to renew the charter of the Bank of the United States, inasmuch as the evils arising to Government and individuals would be desperate on its being suffered to expire; therefore it was Constitutional. Then, sir, we are to understand expediency and constitutionality to be synonymous terms; then, if that is the fact, the Constitution is a nullity in itself; Congress has nothing to restrain them but their judgment. They are fully at liberty to adopt any measure they may think proper, under the sweeping clause of providing for the common defence and general welfare.

Sir, much confidence as I have in Congress, after witnessing the fluctuations and vibrations that have passed in review for several sessions past, I am afraid your Republican Government would be prostrated, your liberties would be shortly at an end. Gentlemen talk of republicanism—they say they are real Americans in principle, and would go any lengths that was necessary, in defending our rights against oppression—and, sir, at the same time are doing the very thing our lasting and inveterate enemy, Britain, would wish them to do; and the very thing, if adopted, that will strengthen her power, and inevitably accelerate the dissolution of Government. What did that able statesman say, who, with some gentlemen, has been considered almost oracular? I mean sir, William Pitt. Speaking of the American policy: "Let them adopt their funding system, and go into their banking institutions, and their independence is a mere phantom." Sir, keep close to your chartered authorities, or the most direful evils await you. If you are at liberty to twist that instrument, on which the perpetuity of your civil liberty depends, into any shape the caprice of party may think proper, you may calculate on your boasted institutions being of but short duration. If your Constitution is defective, amend it. The manner is pointed out, and which is certainly much safer, than to slide into the dangerous doctrine of implication. If you can multiply and link together remote implications, you may from the same parity of reasoning take in every object of legislation that comes within the whole scope of the political sphere.

Sir, it is not only astonishing, but painful, to behold gentlemen, who on former occasions were

But, sir, their object is to pull down the Administration and Republicanism—ours to support it. The minority is not responsible; the majority has the whole responsibility on their shoulders; consequently ought to act with great circumspection. Sir, what were the causes that produced a change of administration? Was it not Constitutional enroachments and abuses? Most unquestionably it was. And will gentlemen wantonly steer their bark against the same rock, on which the former Administration split? Rest assured, sir, that the people of the United States will not tamely look on and see their sacred bill of rights trampled under foot. No, sir; when they discover a disposition in the public agents to fritter away their Constitution into a mere cypher, they will rise in their majesty, and in a Constitutional way apply the proper corrective. They will tell you, gentlemen, that you have betrayed the trust reposed in you, by abusing the powers delegated to you; that you must give place to more able and safer hands to steer the national bark.

Well, sir, as to expediency, we are told that inevitable ruin would follow a refusal to renew the charter of the Bank of the United States, as it is improperly called. Pray, sir, in what way have the United States a single cent of money or interest in this bank? Certainly none. Does she not merely lend her name, and by that foster speculation? Most unquestionably she does. For, sir, I can view it in no other light, than a complete system of speculation. A system, sir, that has drained a considerable portion of your precious metals from your country. Has there not, within less than twenty years, nearly nineteen millions of dollars, dividends arising from this colossal bank, been principally sent out of the country to fatten the European shareholders, who are the principal stockholders? For, sir, I believe it will not be denied, that about three-fourths of this ten million capital belongs to foreigners, and principally to the citizens of the island of Britain; the balance, in all probability, principally to her agents and partisans in this country. For I recollect that on a former occasion, a gentleman from Virginia laid a resolution on the table for consideration, that contemplated making the shareholders known, and that extraordinary opposition was manifested by the other side of the House; I presume, lest the measure should become more unpopular, when it was ascertained that nearly the whole of the capital stock belonged to Britain and her partisans.

Mr. Speaker, money is naturally calculated to command influence. Then what must be the influence wielded by this ten millions of capital in the hands of our country and held principally

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ter should take place—if it should ultimately make its way into the National Councils. Let gentlemen reflect on the hardihood of the agents of this bank. They come forward in the face of the nation and openly offer to bribe its councils with upwards of a million of dollars for the renewal of the charter; for, sir, I may be wrong, but I can view it in no other light than as a bribe in order to obtain the name and sanction of Government to carry on their destructive speculations. I have no doubt but that George the Third is a principal stockholder in this bank, and I believe, rather than not succeed in obtaining a renewal of the charter, that he would authorize his agent in this country to bid up several millions: because, sir, he has never pardoned us since our independence, and by this means he would necessarily calculate on effectuating his nefarious purposes of overturning your Government and bringing you under his power again, and which would be a much safer method than encountering the Americans in arms, for of that he became extremely tired when we were in a state of infancy.

But it is said, that this bank can be of infinite service to Government, in making her deposits in, and in case of necessity to borrow money from, to answer governmental purposes. Indeed, sir, if we continue temporizing and playing the losing game much longer, we will have but little to deposit. And would it not be as safe to make the deposits in some of the State banks as in this foreign bank? For we must be in a desperate situation indeed, if it would not be equally as safe to trust ourselves as to trust foreigners, and the very ones who are oppressing us, and whose interest as well as inclination is to oppress us in every imaginable way. And, sir, as to the obtaining of loans in case of emergency, I would much rather be dependent on my own Government—on the citizens of my own Government, than a foreign Government or its agents, and especially one that is at war with us; for I deem it tantamount to war, when they are perpetually plundering our property, impressing and ill-treating our countrymen, as well as depriving us of important inherent rights, the liberty of the seas. This measure perhaps may be a expediency in our fiscal concerns, in the collection and transmission of revenue; but, sir, there is no danger of the wheels of Government being stopped for it. And, sir, I should regret extremely, if it was as has been insinuated, that the existence of our Government depended on foreign capital; I should regret extremely indeed, if we held our rights, privileges, and independence, on so uncertain a tenure. No, sir; in my mind Government can be carried on as well without this bank

among us already—and one that will not extract the wealth from your country and export it, nor undermine the foundation of your liberty. Well, sir, on whom is this ruin, that is spoken of in such lively colors, to fall? Why, sir, it is to fall on a few speculating merchants, who have been so incautious as to become involved in debt, in consequence of wishing to carry on extensive speculations, therefore borrowed freely of this foreign bank, the calling for which sums would in all probability bring on bankruptcies. These are not the people that I would make any considerable sacrifice for. They are not deserving it. Government has already made very considerable sacrifices in attempting to comply with their memorials and petitions respecting the protection of commerce: and how have they been rewarded? Why, sir, by flying in the face of authority and trying to bring the laws of Government into ridicule. Yet they are the few that are to be favored at the expense of the many. But notwithstanding their reprehensible conduct, there are respectable exceptions. I speak of the speculator, not of the honest and fair trader.

I wish not to be considered an enemy to commerce. The reverse is the fact. I am a friend to it to a certain extent; as an auxiliary to agriculture; but I never wish to see it have the ascendancy in Government, to sway the National Councils, and give law.

But, sir, if the evils will be so great at this time on a failure to renew the charter, what will they be at the end of twenty years, the time contemplated to extend it? For it is reasonable to suppose, that the evil will increase in equal ratio for twenty years to come, as it has for twenty years past. Agreeable to this a renewal will be tantamount to a perpetuation; for, agreeable to the doctrine held forth by gentlemen, a failure then to renew the charter would engulf the Government in ruin, and overturn the fabric of liberty. Who are to be favored particularly by the continuance of this destructive system? The speculating mercantile class, I may say exclusively. And, sir, if they increase in extravagance and arrogance for twenty years to come in equal ratio with what they have for a few years past, nothing will satisfy them short of swaying the National Councils, and giving law to Government, and making everything subserve to their cupidity. Sir, I hold commerce essentially necessary, and would go as far as reason would justify in the protection of it, but I am for keeping it directly within the pale of reason, and not suffering it to drown everything in the whirlpool of its power.

Are not Government well aware that this large

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it obtains an influence in your elections, you may necessarily calculate on its making its way into your National Councils; then everything must bend to this monstrous speculating institution, your Constitution not excepted.

It will be said, no doubt, as I am from the West, where banks are not common, that I am unacquainted with the nature and operations of banking institutions. Sir, I do not pretend to go into detail; practically I acknowledge I am unacquainted with them; my information on subjects of this kind is principally theoretical. But, sir, I am sufficiently acquainted with the nature and operation of them to convince me that they are systems of speculation, calculated to suit the speculating and mercantile class at the expense of the agriculturists—at the expense of those who are the support and sheet anchor of your Government. How is it, sir, when your banks break, which has been the case in several instances, in some of the Eastern States? The Farmers' Exchange Bank of Rhode Island, when it was ripped up, had but some odds of forty dollars in its vaults. The Berkshire and Northampton bank, both of Massachusetts, when their vaults were examined, one had perhaps thirty or forty dollars in it, the other, I believe, was entirely empty; and the Coos Bank, (I believe it was called,) of New Hampshire, was nearly in the same situation, and thousands of their bills in circulation at the time. Well, sir, who were the sufferers? The note holders, the people at large. And, sir, as it is a system of speculation, when they have emitted bills to the amount of their limitation, where they are limited, they may break (as the saying is) full handed, and the weight of the shock falls on the note holders, who are principally agriculturists, as they compose eight-tenths of the people.

But, sir, the accounts of the speculations, impositions, and I must add, swindling and corruptions, that have been practised in the East, under the head of banks, have reached the West, and the people, notwithstanding they have, by some of the Eastern gentry, been deemed scarcely in a state of civilization, have sympathized with their Eastern friends, and have regretted that turpitude had become so deeply rooted in the East, in the line of banking, where all but exclusive civilization was claimed, and which has made them cautiously guard against the possibility of being engulfed in a similar vortex. But, sir, if gentlemen would cast their eyes emphatically over the history of the West, I suspect they would not only find civilization, but pure patriotism; patriotism, sir, that would not fade before the sun; they would find the people uncontaminated with

will have to take the back ground, and ultimately be prostrated; your boasted institutions will only figure in the pages of history, like ancient republics, as a mournful monument of the fall of man, and a sorrowful memento of his degraded condition: therefore, in my mind the adoption of this measure would seem like committing a most horrid treason against the principles of the Constitution and civil liberty, consequently I consider it not only the true interest, but the bounden duty of every man who has any pretensions to friendship for the American Government, or civil liberty, to assist in strangling this infant Hercules in the cradle, or at least preventing it from coming to maturity. If this measure was only calculated to perpetuate the memory of its founder, I should not so much object to it, but then I should think it unnecessary and improper; but, sir, it will do more, it will further the views of Federalism by increasing their power, and assist them in overturning the present system of government, on the ruins of which they will calculate on raising one more congenial to their purposes.

Mr. Speaker, from my present impressions, I think it would be more advisable, if the British Government should not rescind their destructive measures affecting our rights, and do us justice, rather than renew the charter of the Bank of the United States, as it is called, thereby furthering their views on this country, to lay our hand on the capital stock, or at least so much as belongs to the citizens of the Island of Britain, in order to indemnify us in part for the damages we have sustained by British outrages; and, if it becomes necessary, (as I presume it will,) to make use of it in defraying the expenses necessary in the subjugation of the North American provinces, which will have to be resorted to, if you wish to give peace to the land. For I have no hesitation in saying, that while this large foreign capital is in existence in your country, and the British hold their North American possessions, that British principles will be disseminated, that Federalism, if gentlemen like the term better, Aristocracy, will regularly progress and finally convulse your Government to its centre. You may rest assured, sir, that if the charter of the Bank of the United States is renewed, it will prove a powerful weapon in the hands of our enemies, and will be calculated to rule the Government, instead of the Government ruling itself. Then, sir, is it not high time that the accounts of this colossal speculating institution should be suffered to close, by letting the charter expire on the third of March next, that we may know whether this Diana of the Ephesians be a goddess of solid silver, or only of clay silvered over?

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Sir, in justice to my own feelings, and the future prosperity of my country, I am bound to vote in favor of concurring with the Committee of the Whole in striking out the first section of the bill.

Mr. KEY.—Mr. Speaker, this House, in Committee of the Whole, having struck out the first section of the bill in relation to the charter of the Bank of the United States, and thereby defeated the bill; and this House being called upon to concur with or reject the vote of the Committee, a question of the utmost magnitude and importance is presented to our consideration. Few subjects more deeply affect the welfare and prosperity of our country, and none deserves a more calm and temperate investigation. I shall not attempt to excite the feelings of the House by painting the scenes of distress that will probably flow from a non-renewal of the charter, but address myself entirely to your understandings.

All parties seem to concur in the utility and convenience of the bank to aid the collection and payment of our taxes and revenue, to safe-keep the amount and distribute it when wanted. But many deny that we have, under the Constitution, a right to incorporate a bank even for such circumstances. I have listened with pleasure to the arguments urged by those who deny the right, and have weighed them with attention, and soliciting the same indulgence from them in return, I do not despair of producing conviction.

I shall contend that we have a right to create a National Bank, and that it is our duty to do so to avoid the general calamity that will result to the country if we fail to do it. I beg of gentlemen to take the Constitution in their hands, and follow me step by step, while I demonstrate the existence of the right.

The eighth section of the first article of the Constitution contains the grant of powers given to Congress to enable it to conduct the affairs of the Union. The powers given are enumerated and specified, being eighteen in number. In the first we find these words: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States." These words give to the United States a definite, explicit power "to lay and collect taxes, duties, imposts," &c.; the only qualification of the power is, that the duties and imposts, not the taxes, shall be uniform. The eighteenth enumerated power is, "for Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c.

The general grant of power "to lay and collect taxes and imposts," &c., given in the eighth section, is thus restricted in the ninth: "No capitation or other direct tax shall be laid unless in proportion to the census," &c.; 2d. "No tax or duty shall be laid on articles exported from any State." It is a sound rule of construction, and is founded in common sense as well as wisdom, that where a grant creates a general power, and enumerates exceptions to its exercise, that the expression and enumeration of those exceptions operate to exclude all others; because, having exceptions in view, and having specified some, it demonstrates that, if others had been intended, they would also have been expressed; this rule is so true that it has long been a maxim that "*Expressio unius est exclusio alterius*," and governs the construction of all grants and instalments in public or in private life. I am then warranted in saying, that the grant of power "to lay and collect taxes and imposts, &c., provided the latter are uniform," is fettered or restricted by no other limitation than the two above expressed in the ninth section; and it follows that we can make any laws necessary and proper to lay taxes, if we do not violate the restrictions interdicting us from laying a tax on exports, and a capitation tax, contrary to the proportion of the census.

Mr. Speaker, an honorable gentleman from Virginia, on the Constitutional question, limits the power of Congress by what I call an interpolation in the Constitution. The words of that instrument expressly give Congress the power "to lay and collect taxes," and "to make all laws necessary and proper" to carry those powers into effect; but the honorable gentleman adds, that "necessary" means indispensably necessary. To this I answer, that the word indispensable is not used in the Constitution; the words used are *necessary and proper*. The error into which that gentleman and an honorable member from New York have fallen, is a want of precise meaning of the terms they use, or rather confounding two things in their nature essentially different. They confound the means or mode by which an end is attained with the end itself, and nothing can be more erroneous. The end, or power given, is to lay and collect taxes and pay the public debts; the power to make laws necessary and proper to effect that end is also given, and consists in devising and establishing the means of accomplishing it. The means to accomplish the end are no where restricted. All the restrictions are upon the power. The means or mode by which the collection is to be effected, is left to the wisdom and discretion of Congress making

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compish the end. If, then, which seems generally admitted, a bank is useful and necessary in the collection of taxes and imposts, and payment of the public debt, and is the best mode of effecting it, the creation of a bank for such purposes is definitely within the power of Congress; and, more, it is the bounden duty of Congress to establish it, because they are bound to adopt the best practicable, or in other words necessary and proper, means to collect the tax and imposts.

If more means than one exist to carry a power into effect, neither can be said to be indispensably necessary, because either may be adopted to the exclusion of the other; and this mode of reasoning pushed far proves, that, where more means than one exist to execute power, the power is a dead letter.

That the creation of a bank is a means to execute a given power, and not the power itself, will follow from a careful view of the subject. Here my opponents and myself are precisely at issue. They say the creation of the bank is a power not given by the Constitution. I state it to be a means of executing a power given, and not the power itself. Let sound reasoning test our principles—what is a power, but an authority to attain a given end? What is the power given in this case? Let the Constitution speak for itself—“to lay and collect taxes, imposts,” &c., and pay the public debts. Now the power and the end are express, definite, and precise—there is but one power and one end; human ingenuity can make no more out of the words of the Constitution—but there are many means by which the power may be executed, by which the end may be attained, and those means are vested in Congress, by the power expressly given them “to make all laws necessary and proper to execute the powers before enumerated.”

Congress is a body politic and incorporeal, and must use some agency or means to carry a power into effect. To do it in this instance by the agency of a bank is one means; to do it by the appointment of officers to collect the taxes is another; to make the debtors themselves pay into the Treasury is a third. Now is it not an equal exercise of power, to create and appoint officers to collect, preserve, and pay away public money, as to create a bank for that purpose? The power is the same, though exercised in a different way; but the mode of its exercise does not affect the nature or essence of the power—this is most clear; and I ask gentlemen, in the sense they use the word, where is the express power in the Constitution to appoint and pay officers to collect taxes? Certainly it grows out of the power “to make all laws necessary and proper.” &c., and is

lection, safety in keeping and facility of paying it away, as and where the exigencies of Government require, a bank has a decided preference over the appointment of a multitude of officers, with salaries or commissions; the chance of negligence; the risk of loss, and most insuperable difficulty and embarrassment of transmission at home or abroad.

I trust, Mr. Speaker, that I have shown that correctly viewed, the creation of a bank is a means, not an original power; that, as a means it is best adapted to the end or execution of the power, and that, to attain the end, a full, express, definite grant of power is given by the Constitution. But, sir, I ask, is our Government never to settle down to stability—an object so desirable and so important to the happiness of the people? If, from the inexplicitness or imperfection of language, doubts have existed, which have been decided by the concurrence of this House, the Senate, and the illustrious Washington, in the exercise of their Constitutional functions; and twenty years last past have exhibited a practical commentary on the Constitution, ought we not now to regard it as sacred?

Has not Congress, and have not all the States, sanctioned the legitimacy of the bank, by passing penal laws against counterfeiters of its paper? Have not many of the judiciaries inflicted imprisonment and deprivation of liberty on offenders under those laws; and are we now to be told, that the original law which induced all these punishments is unconstitutional and of course no law? But, sir, I will not repose my argument on the fact of long acquiescence in the States, nor of acquiescence under the Administrations of Washington, Adams, Jefferson, and Madison; I will advance a step further, and show that this House, under the Administration of Mr. Jefferson, and that Mr. Jefferson himself did under his own hand acknowledge the legitimacy, and consequently the Constitutionality, of the bank. In 1804, Mr. Nicholson, of Maryland, made a report authorizing the Bank of the United States to establish an office of discount and deposit at New Orleans. A bill was drawn, it passed this House, it passed the Senate and was signed by President Jefferson the day it was presented to him. It was entitled “An act supplementary to the act entitled an act to incorporate the subscribers to the Bank of the United States.” Here let us pause—it is really ludicrous, sir, to see the gravity and wisdom of the nation engaged in passing a supplement to an unconstitutional law. One would suppose, sir, that if the original law was brought into view, if deemed unconstitutional, the object of bringing it into view would be to repeal it—

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cannot escape from these questions by saying that the bank had this power before the act of 1804. I deny it; but for the sake of argument, be it so. Then, I ask, why was that supplement passed? And was not the passage of the supplement a direct affirmative recognition of the power, if already in the bank, and to give it to them, if they had it not?

Sir, I will trouble the House no longer on this part of the subject—I trust I have satisfied gentlemen that we have authority to create a bank under the Constitution; that this authority has been acted on by Federal and Republican administrations; and the United States and the States have acquiesced in it, and sanctioned it many years without murmur or remonstrance.

Mr. KEY then proceeded to examine the question on the ground of expediency, &c.

Mr. PICKMAN.—I acknowledge, sir, that I feel very anxious to have the charter of the United States Bank renewed. Not from any personal interest which I have therein—for I have none. Nor from a regard to the interest of the stockholders, for I consider that very unimportant, when compared with the interest of the Government, and of the community. This question has acquired an artificial importance from the manner in which it was originally discussed and in which it has been discussed at this time. It has been treated as a great Constitutional question, when, according to my view, it involves no great Constitutional principles. Ingenuity has surrounded it with a mist of sophistry which has obscured it, and presented it to the mental eye through a very delusive medium. I shall not attempt to follow the gentleman from New York (Mr. PORTER) in all his nice and ingenious distinctions between the powers vested in the Federal and State Governments, nor in his metaphysical refinements on objects, ends, powers, and means; but shall leave that task to gentlemen of more industry and more talent than myself. His observations, however, on the position laid down by the late General Hamilton, in his celebrated argument on this subject, appear to me so extraordinary that I cannot forbear to notice them. The position is, that every power vested in a Government is in its nature sovereign, and includes by force of the term a right to employ all the means requisite, and fairly applicable to the attainment of the ends of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the essential ends of political society. And to prove that the powers of the Federal Government, as to its objects, are sovereign, the following clause in

I understood him, observed that the power to pass the supreme law does not give the Government sovereign power, for the highest law which any Government can pass is a law to inflict the punishment of death. The sheriff who exercises this law, said he, is not therefore possessed of sovereign power. Certainly not; he is only the instrument of the sovereign power, as much so as the axe or the halter with which he executes the sentence. But “the Government is not sovereign because it is made to depend in some degree on the State Legislatures”—if they were to omit to appoint Senators the Government would die a natural death. If they were to neglect it they would violate their oath to support the Constitution of the United States. But “the sovereign power is in the people.” The sovereign and the physical power are often confounded together. The people in their collective capacity are as much bound by the immutable rules of justice as each one is in his individual capacity. The people of the United States are under a Constitutional and moral obligation to support the Federal Government—and it is not proper to presume that they will omit to do what it is their duty to do, and found an argument on such presumption.

But, to return to the subject of the bank. If we consider, sir, what are the purposes for which it was established, and what are the privileges with which it is invested, we shall, I think, find that the former are not only Constitutional, but highly necessary, proper, and useful, and that the latter do not interfere with State rights. The Constitution of the United States vests Congress with the power “to lay and collect taxes, duties,” &c.; “to pay the debts, and to provide for the common defence and general welfare of the United States,” to “borrow money on the credit of the United States, to regulate commerce with foreign nations, and among the several States, and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” It is, therefore, the right and duty of Congress to facilitate, and to render as certain as possible, the collection of the revenue. It is their right, and their duty, to provide places of safe deposit for the public moneys. It is their duty to discharge the public engagements with punctuality and good faith, and, if possible, to provide the means of transmitting the public moneys from one place to another, as the public exigencies may require, without the risk of loss to the United States. Has not the bank answered all these highly important and necessary purposes? Can they be so well accomplished by any other means? I presume not, for

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ficient to say that each of them would subject the United States to frequent losses, and the Government to constant disappointment. But, it is thought by many that the fiscal concerns of the Government may be conducted through the instrumentality of the State banks; and, in fact, it is the interest of the State banks which excites much of the opposition to the renewal of the charter of the United States' Bank. In my opinion, however, it is an erroneous view of their interest. I apprehend that many of them will sustain a shock from the suppression of this institution, from which they will never recover. How can the public business now done by the United States' Bank be executed by the State banks? Congress have no control over them, are ignorant of their funds, unacquainted with the conditions on which they were granted, and of the principles by which they are governed. Some of them are, undoubtedly, entitled to confidence, but many of them are not. It would be imposing on the Secretary of the Treasury an invidious task and a most unpleasant responsibility to make a selection. In every view which I can take of the subject, it appears to me that it would be the height of imprudence and indiscretion to suppress the Bank of the United States and deposit public moneys in the State banks. If, however, the privileges conferred, and necessarily conferred on the United States' Bank are unconstitutional, then it is our duty to suppress it. Let us candidly consider what these privileges are. The greatest, in my opinion, is, that its bills are receivable for duties. I do not know that any one has pretended that Congress transcended their powers in conferring this privilege. It is this, however, and this only, which gives its bills a circulation throughout the United States; it is this which enables it to transmit large sums from one extreme of the Union to the other, as the exigencies of the Government require. Nor do I see how this necessary privilege could be conferred on the State banks. Certainly, it would not be safe to give it to all of them, and if you were to select a few it would excite the most serious discontents. Besides, it is necessary that the banks between which this intercourse is to subsist, as that of drawing upon each other, should have a common parent to regulate their affairs, and to secure them from ruin from unexpected and, of course, unprepared for drafts. It is necessary, in fact, that there should be such an institution as the United States' Bank, and the only question is, how shall it be established? By the State Legislatures, or the Federal Government? But, it is said that the establishment of branches in the different States is a violation of the State sovereignties.

States' Bank is restrained by their charter from letting their money at a rate exceeding six per cent., and I believe that this is not usury in any of the States. In some of them the legal rate of interest is higher. Their profits over six per cent. are what they make as bankers, and not as money lenders. It is said to violate the State laws because the persons and private property of the stockholders are not made responsible for the payment of its notes. This is the case with every artificial person. He is not accountable in his private capacity for the notes which he gives, or the contracts which he makes as such. The stockholders of the bank may be considered as public agents, and, as such, it would not be reasonable to subject their private fortunes to the payment of its debts unless they abuse the trust reposed in them. Such a responsibility would render it impossible to establish the institution; nor is it necessary for the public security; for it is next to impossible for a bank with such funds to become insolvent if its affairs are honestly and judiciously managed. If they are otherwise, no guards will afford security to the public.

It appears to be thought by many, that, because the State Governments have a right to incorporate banks, therefore, the United States' Government has not the right. Now, it is an implied power in the State Governments, for there is no such power expressly delegated to them in any of State constitutions. They assume the right because it is not prohibited to them. Upon the same principle has the United States' Government the right to establish a bank, provided it be necessary to the accomplishment of the purposes for which the Government was instituted. I again inquire, Mr. Speaker, if the fiscal operations of the Federal Government do not require such an institution? Has not the experience of twenty years fully evinced its utility to Government? Have not the public moneys been safely kept? Have not large sums been continually transmitted from one place to another as the public exigencies have required, and without loss to the United States? Why, then, suffer an institution which has done so much good—which has proved so safe and so useful—to run down, and trust to precarious and unpromising substitutes? But, while I am anxious to have the charter of this bank renewed from a full conviction that the fiscal concerns of the Government cannot be managed with convenience or safety in any other way, I feel infinitely more anxious that it should not be suppressed at this time, on account of the community at large. Such an event must, in my opinion, be productive of the most distressing consequences.

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the United States and individuals. It has to the amount of five millions of dollars in gold and silver in its vaults. There is due to it from the State banks about two millions of dollars on their bills and on deposits. It owes about fourteen millions of dollars, payable on demand, and it will probably be very soon called upon for this money. To fulfil its own engagements, therefore, it must immediately call for seven millions of its debts, and within a short period for the remaining ten millions. And this last sum must eventually be paid in specie. Whence is this specie to come? From the vaults of the State banks, if it be there. For the payments to the United States' Bank will be in bills of the State banks. These bills will be immediately sent to those banks to be exchanged for specie; thus they, instead of having it in their power to aid the debtors to the United States' Bank, as some erroneously suppose, will be obliged to call on their own debtors; and every specie dollar taken from a bank may, and probably will, oblige it to call for two or three dollars of its debts. It does not appear to me unreasonable to suppose, that, by compelling the United States' Bank to call in the seventeen millions of dollars due to it, we shall compel the State banks to call in as large, if not a larger sum. How these payments are to be made, and what effects are to result from such a state of things, I pretend not, sir, to sufficient discernment to foresee. It will probably produce a general suspension of the payment of debts and an almost total stagnation of business. It will greatly depreciate the value of every species of property, and thereby reduce many persons to insolvency who flatter themselves that they have much more than enough to pay their debts. It will raise an enormous demand for money, and, of course, throw many persons into the hands of the griping usurer. It will distress all classes of people except the moneyed capitalist. If, in addition to this measure, our non-importation act should go into effect, thousands must be overwhelmed by ruin. The shock may first be felt in the seaport towns, but will ultimately extend to the remotest villages in the country. I deem it, sir, a very unfortunate circumstance, that our paper circulating medium so greatly exceeds the amount of our specie; that so large a portion of it is the representative of lands, houses, and merchandise, instead of being the representative of gold and silver. But this is not the fault of the Federal Government; it is owing to the numerous banks which have been instituted by the State governments. This furnishes to my mind a strong argument against the institution of banks by the

to answer all the purposes for which it was established. It has proved very useful to our merchants and to the community at large, not only by furnishing loans, but also by supplying a medium which circulates throughout the United States, and thereby renders it much easier for the merchant of the Northern States to purchase the productions of the Southern States. It may be truly said, that it has aided the agriculture, the commerce, and the manufactures, of our country. Its affairs have generally, if not uniformly, been conducted with fidelity and ability. Yet we are about to suffer this valuable institution to fall. We shall thereby compel the Secretary of the Treasury to have recourse to untried, troublesome, and hazardous expedients for the management of our finances, and we shall probably lead many of our fellow-citizens into ruinous speculations. It is absurd, after the experience we have had, to ascribe to it any great political influence. It was established by the Federal Republicans when they were the ruling party. It has always been under their management. Yet, with this monstrous engine in their hands—this engine which is to govern the Government—their political opponents have gained an absolute and uncontrollable ascendancy. Continue it, sir, and you will probably do much good. Suppress it, and you may bring on incalculable evils.

Mr. W. ALSTON said, that the motion to strike out the first section was undoubtedly a fair way of attacking the principle of the bill; but as the same motive, even if he did hereafter vote against the bill, would not govern him as it had other gentlemen, he begged leave to state the reasons why he should vote against the motion. It has been contended, said he, by gentlemen who have gone before me in this debate, that the Constitution did not authorize Congress to continue this charter, or to have created it in the first instance. I am opposed to this doctrine of the restriction of our powers, because I believe; if practised upon to the extent that gentlemen of great talents contend, the Government itself cannot get along. I do not believe that gentlemen can put their finger on the Constitution and show their authority for a number of acts which we are compelled to pass, any more than they can put their finger on the particular passage which authorizes the granting this charter.

Sir, we are met on the threshold of this question by the gentleman from Virginia, (Mr. BURWELL,) on Constitutional grounds; and I will take the argument of that gentleman alone, and I think can prove that he himself has given up the Constitutional question. In the clause which

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ly," before he is able to give any weight to the construction for which he contends. I have examined the Constitution over and over again for the word *absolutely*, and can find no such word. Where, then, does the gentleman get it from, but from the very same source that he charges on the favorers of the Constitutional right to pass the law? It is by implication that he calls in the aid of the word *absolutely* before *necessary*. With what propriety, then, can he refuse to others the exercise of the same right that he himself has taken? If gentlemen have the right to interpolate this word, why may we not as well interpolate others? It is denied that the doctrine of implication can apply with regard to granting charters. If it can apply in any way, why not in this way? If I can show to the House that it might apply in some cases, or it will be impossible that you can execute the object of the Constitution, why may it not as well apply in the case of granting charters as in any other. I ask gentlemen to put their finger on the clause of the Constitution which authorizes them to pay away one cent of the public money? How do they get at the power but by implication? You have a power by the Constitution to pay the debts of the United States—but that part which provides for the payment of debts, means debts already contracted, and owing at the time of the adoption of the Constitution; that, too, is in the sweeping clause, which gentlemen will certainly not avail themselves of. But you have not the power expressly given to create a debt, other than the clause which authorizes you to borrow money on the credit of the United States; but none will contend by this you are authorized to make contracts and go in debt. There is an important clause of the Constitution, which gives to the United States power to call out the militia of the States for particular purposes. Show me the spot in the Constitution which authorizes the payment of the militia. Not one. The power to call them out implies the power to pay them. It inevitably follows, that the power to lay and collect taxes and raise a revenue implies the power to take care of it. Will gentlemen pretend to deny it? What is the argument of gentlemen on this point? They say it is true that a bank is necessary for the safe-keeping and paying the debts of the United States; but, say they, the banks of all the States are open to you. How does this doctrine apply to the United States? Have not the States themselves denied the connexion of the State and Federal Governments? Can I quote a State which does not afford an example of this disposition? The seat of a gentleman of high standing in the Legislature of Vir-

office or appointment at the same time under the State and Federal Governments. What right have the directors in a State bank, appointed by the State, to contract with the General Government to keep its money? I deny their right.

Putting the State banks out of the question, it is necessary that we should create means by which we can transfer the money of the Government without expense, hazard, or loss. I will state a case. We have an army in the city of New Orleans, which must be paid. By paying the money at Baltimore or Philadelphia, it is transferred to the paymaster at New Orleans without costing you a cent. Is not this convenient, expedient, necessary, to comply with the interest of the United States in the case I have stated? I do not believe it possible, taking the ground that they have the right to place money in the banks of the individual States, that such a connexion between them could ever be established with the same ease, convenience, and safety, as at present, to pay, in the different parts of the Union, money which the United States are bound to pay. I ask the question, Will a bank in North Carolina trust a bank in New Hampshire? No; but the State and every individual in it would trust the Bank of the United States. You could not establish a connexion between North Carolina and New Hampshire so that either would trust the other. The establishment of the Bank of the United States affords, in this case, a facility useful and absolutely necessary, in my opinion, to carry on the measures of Government. How will putting down the Bank of the United States have an effect to lessen the quantity of paper in circulation? If I could think so, I would join the gentleman most seriously; but the very contrary, in my opinion, would be the effect. The Bank of the United States and its paper serves as a controlling power, keeps the State banks in proper bounds, and prevents them from issuing a vast quantity of paper which would inundate the country. They are very confident, if they issue too much paper, that there will be a run upon them, because the interest of the United States' Bank and the State banks do not at all times go hand in hand. At this time it certainly restrains the circulation of State bank paper.

It is said, sir, that the States are not compelled to do particular acts which they are required to do. To be sure, the States have the physical power, but they are bound by the same solemn oath to carry into effect the Constitution of the United States, that the members of this House are. It may as well be said that the State Legislatures may, if they choose, refuse to appoint

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which I never heard any gentleman mention, nor any writer on the subject. I may put an erroneous construction on it, but, if I am correct, the conclusion is inevitable. In the 10th section of the first article, it is said, "No State shall coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts;" and the interpretation which I give to it is that the *United States* possess the power to make anything besides gold and silver a legal tender. If this, then, be the correct construction, it is a clause which I have never before heard relied on. If what I conceive to be the fair interpretation be admitted, it must follow that they have a right to make bank paper a tender. Much more, then, sir, have they the power of causing it to be received by themselves in payment of taxes. If they have power to make paper of any description whatever receivable in payment of all debts whatever, can any one deny that they have a power to make it a tender in payment of taxes or debts to the United States? After admitting the power, will you place the exercise of it in your Secretary of the Treasury, or in the hands of fifteen or twenty men whom you call directors? But I might not have voted against concurring with the committee in striking out the first section of the bill, if I stood on this ground alone.

To the bill, in its present shape, I should have no hesitation in giving a decided negative; but there is a plan on which I would vote for the renewal. Sir, I ask gentlemen, who have voted against it on Constitutional ground, to meet me on this point—the plan is, that the additional stock shall be taken wholly by the United States; that they shall be bound to distribute it among the individual States, having respect to their relative numbers, at its par value. The States would take it, if they think proper; if taken there is an end to the violation of State rights. In a plan of this kind, a distinction is brought to the mind of every man, whether he will prefer the interest of the great body of those people who are represented in the State Legislature, or whether he will support the interest of a few who think proper to incorporate themselves for the support of a bank. The true question is, whether the emoluments of the banking system should belong exclusively to a few, or collectively to the whole United States. I therefore hope the first section will not be stricken out. In discussing the detail such a plan would be more interesting than any other can be to the States. The advantages of such a system must be seen. The anxiety evinced for the renewal of this charter and the credit of the State banks altogether, in con-

Putting down the charter of the United States' Bank will not put an end to the banking system. Cast your eyes about you at what has taken place at the last sessions of the State Legislatures? Has one of them adjourned without establishing a bank? It is bank paper as much when issuing from State banks as when from the Bank of the United States. There is no difference. If this question had not been attacked on Constitutional ground, if it had been left merely to expediency, I should not have troubled the House on the subject. I know too little of the concerns of a bank to think of making a speech on the details alone. But I know how much interest moves us on this question. When you place money in the State banks, you give a complete license to the State banks to issue what they please. What was the loss of paper money during our Revolution? Did it not fall on those who had given credit; and are we prepared to meet such a shock as that? Could we have stood it in any other cause than that in which we were engaged? Here let me enter my protest against the banking system altogether. But we have it. Is not the consequence more dangerous; will not the loss ultimately be greater, to let the State banks issue paper at will, than to control them by the Bank of the United States?

If the doctrine which gentlemen advance about putting the finger on that part of the Constitution which gives power to carry on the Government itself be true, we may as well quit legislation altogether. You cannot go a single step without calling in the aid of implication. When a means is necessary and expedient, when the operations of Government cannot as well be carried on in any other way as by it, then it is necessary, and, being necessary, is Constitutional.

The House adjourned without coming to a decision.

MONDAY, January 21.

The SPEAKER presented a memorial of the Legislature of the Indiana Territory, stating the extreme scarcity of money within the said Territory, and the reasons of such scarcity, and praying that the land laws may be so amended as not to exact interest from the date of purchase on the several instalments not punctually paid for lands purchased of the United States.

On motion of Mr. HUBBARD,

Resolved, That the President of the United States be requested to cause to be laid before this House such information as he may possess respecting seizures, captures, and condemnations,

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this House a return of the Army, with the stations at which garrisons are fixed, and the strength of each garrison; also, the state of the recruiting service, and the progress that has been made therein since last session.

Mr. HELMS and Mr. TRACY were appointed a committee to present the said resolution to the President.

On motion of Mr. MCKINLEY,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of altering or repealing the second section of the act, entitled "An act to annex certain shores and waters to the district of Mississippi, and to authorize the building of a custom house at New Orleans," and that they have leave to report by bill, or otherwise.

Mr. POINDEXTER presented a petition of the Legislature of the Mississippi Territory, praying that the said Territory may be admitted as a State into the Union, on an equal footing with the original States; which was read, and committed to the Committee of the Whole, to whom is committed the report of a select committee on that subject.

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This subject was called up, and Mr. NEWTON made a motion to postpone the further consideration of it indefinitely, but withdrew the motion until more members should come in, the House being thin. A short time afterwards—

Mr. GARLAND said that on this very interesting subject he thought the House ought to act understandingly and prudently. He wished that they should not precipitate the Government into difficulties from which it would be difficult to extricate themselves. He wished they should take at least a little time to reflect; that his friend from Virginia (Mr. LOVE) should be permitted to go on and take out his letters of administration, as proposed on Saturday, and see what could be done. If the gentleman could show that the Government could conveniently carry on its fiscal operations without the bank, Mr. G. said he should be ready to go with him. But, until that was shown, he did not wish a decision to be precipitated. He therefore moved to postpone the further consideration of the bill till the first of February. There would in the interim be time to see how they could form their plans, and how they would be able to conduct the fiscal operations of the Government. If a suitable substitute should be offered for the purposes of collecting and transferring revenue, it would be the means of reconciling many gentlemen to vote against the bank. He hoped therefore the postponement

tions. I know what sort of things they are; and, after the time that we have had to consider the subject, I think it all important that we should come to a decisive determination. Let me tell you, sir, that intrigue and artifice will wear away the best principles. Ample time has been given for it already. I am for laying the legislative axe to the root of the evil; I am for immediately deciding this question, and turning to some other business; and for this purpose move that the further consideration of the bill be indefinitely postponed.

The motion of Mr. NEWTON supersedes that of Mr. GARLAND.

Mr. LOVE said he rose principally at this time to ask for the yeas and nays on this question. He thought, with the gentleman last up, that it was highly important there should be an immediate decision, and he would add to the reasons already offered in favor of it, another. It is now three years, said he, since Congress were called upon, in the most imperative terms, to act upon this subject. In the petition of the stockholders, three years ago, it will be recollected that it was stated that unless a certain assurance was given that the charter would be renewed, they must immediately commence a curtailment of their discounts, &c. We have now progressed to within about six weeks of the time when this institution will cease to exist, and yet we find, by an inspection of their accounts, that they stand very nearly in the situation in which they were at the time the subject was first brought before Congress. If this company were not to have their charter renewed, the sooner they know it the better. On the part of the Government it is important that an early decision should be had, that they may not run the risk of losing revenue to an immense amount; for who knows who is to administer on the assets of this institution? In consequence of the law now in existence, requiring deposits to be made in the Bank of the United States and its branches, there would soon be within their control, in specie and bonds, an amount of sixteen millions of dollars of the public property. Under present circumstances, it is highly proper that immediate measures should be taken to withdraw these deposits. Every gentleman before this time must have had an opportunity to make up his mind; and I hope the question will be decided without further delay. As the mind of no gentleman in the House could be changed by a discussion, it is to be hoped that the question will immediately be taken.

Mr. TROUP conceived the motion now made to be perfectly proper. He felt, however, under no obligation to accommodate the bank. The act

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subsequent act, given any pledge that it would do so. The bank not having received any pledge of renewal, ought to have been prepared for its dissolution. If the institution had done what they ought to have done; the Government, so far as it is concerned, would have prepared itself against the event, as he was told it was now about to do, by substituting arrangements with the State banks for arrangements with the Bank of the United States or its branches. Mr. T. could therefore see no difficulty in assenting to this proposition, whether as respected the Government or as respected the individuals concerned in the bank.

Mr. FISK inquired whether it was understood that deposits in the United States' Bank would be transferred to the State banks without the sanction of law?

Mr. WRIGHT.—Mr. Speaker: The importance of this subject, and the great attention that has been paid to gentlemen while delivering their opinion upon it, is a sure guarantee that I also in my turn shall receive the attention of this House, while I deliver my sentiments. I pledge myself, in this exhausted state of the debate, not to consume more of their time than a correct sense of duty to my constituents shall impose.

This subject, sir, is presented to our consideration in a two-fold point of view, as to its constitutionality; and as to its expediency. I will therefore proceed to consider it in that order.

On the point of its constitutionality I shall take the liberty to recall your attention to those parts of the Constitution on which its advocates have seemed to rely. The gentleman from Maryland (Mr. KEY) cites the 1st art. 8th sec.: "Congress shall have power to lay and collect taxes, imposts, duties, and excises, to pay the debts, and provide for the common defence and general welfare of the United States." He also read the 1st article, 9th section: "No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken." However, not yet himself satisfied with being able to derive an authority from these sections, he calls in aid the last paragraph of the section, "Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." The gentleman insists, that the power to lay and collect taxes, &c., &c., and the sweeping clause, empowering Congress to make all laws necessary to carry that power into execution, will authorize Congress to grant a charter to this bank; that it is necessary to the collection of taxes,

the rate at which the specific articles should be valued; in the case of a capitation, what should be paid by the head; and in case of indirect taxes, what should be the duty on the several articles taxed, and, in either case, to direct the mode of ascertaining and collecting the same, by whom to be ascertained, and by whom collected, and to whom paid. But I never did suppose that this power, even aided by the sweeping clause, could be conceived seriously to extend to the providing means to those who had to pay the tax, whereby they were to be aided in the payment. Such a construction would as well justify the passing a law compelling the culture of land in a particular way, whereby the crops might be increased; as the farmer cannot pay his tax, unless he raises produce for sale; or indeed it might be extended to compel him to use plaster of Paris to improve his crop, and facilitate the payment; which I should deny, even if the tax was made payable in produce.

The same gentleman seems to have relied on the article "That no capitation, or direct tax, should be laid, but in proportion to the census," as forming an exception to the powers of Congress; and I presume means to infer, as this bill will not be a capitation tax, that Congress may pass it, under their power "to lay and collect taxes," and the sweeping clause to carry their specific powers into execution. Sir, the Convention never intended that Congress should have or exercise the power to establish banks, or they would have made use of apt words to have vested them with it. Bank, sir, is a technical term, and if they had intended that power they would certainly have used that term. When it was intended to give any power, we find the Convention had no difficulty in expressing it; as, Congress shall have power "to coin money and regulate the value thereof, and of foreign coin"—and here let me remark, is an express power "to coin money," which, if we were left to legal construction, would be an affirmative pregnant that they should not emit bills of credit. But, sir, we need not rely on construction to prove what powers Congress have not, as one of the amendments to the Constitution provides, that "Congress shall have no power that is not expressly given." And to give a power by expression is to use apt words for that purpose; and it of course becomes necessary to the power in Congress to establish a bank, that such a power should be given by such specific terms, as would unequivocally, and without construction, convey the right.

As to the sweeping clause, "to pass all laws necessary to carry into effect the foregoing powers of Congress," the latter of this section con-

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'authorizes the National Legislature to pass all necessary and proper laws. If there be anything exceptionable, it must be sought for in the specific powers, upon which this general declaration is predicated. The declaration itself, though it may be chargeable with tautology or redundancy, is at least perfectly harmless." Here we find one of the framers of this instrument, when defending this article, called the "sweeping clause," from the charge of its being used to extend the powers of Congress, or to embrace other than the specific powers, himself confining it to the express powers, and indeed declaring that it gave no power, was a mere tautology. Yet gentlemen seem to think that it is an important delegation of power, and confidently quote it as such, and indeed if their construction of it were indulged, it would discharge us from every Constitutional obligation, that we, in our discretion, might suppose the public good required; but I trust the good sense and patriotism of this House will never suffer it to substitute discretion for expression, their will for the law.

An honorable member from North Carolina (Mr. ALSTON) has, with some confidence, cited the tenth section of the first article: "No State shall emit bills of credit, or make anything but gold and silver a tender." He urged this denial of the right to the States to emit bills of credit as a perfect prohibition of the States to grant bank charters, and insisted that bank notes were bills of credit. He spoke of this section as a discovery of his own, not noticed by anybody before him as applicable to the case. Sir, the gentleman certainly misapplies the term, "bills of credit" to "bank notes." The term "bills of credit" was surely intended to express and prohibit the emission of paper money, which had been emitted by the States and by Congress, during the war of the Revolution, and had so depreciated as to impress the Convention with the propriety of prohibiting their emission in future. By a recurrence to the proceedings of the old Congress, and the laws of the several States, it will be found that the term "bills of credit" was technically used for paper money; nor can there be less doubt that bank notes have also their technical meaning, as the paper issued by bank directors, and neither of the terms "bills of credit," or "bank notes," could by men of legal intelligence be used for the other. "Bank note," and a "bill of credit" are terms so well known to the law, that in legal parlance neither could be substituted for the other. On a prosecution for counterfeiting either, the other could not, I apprehend, be given in evidence. I must therefore

already arrived to that lust of power; and I trust the present case, when its expediency comes to be examined, will not seduce any member of this House from his regard to this hallowed instrument.

Sir, the Secretary of the Treasury, (A. Hamilton,) at the time of the passage of the law establishing the United States' Bank, and who may be called the father of it, labored with unceasing assiduity, in every stage of it, to give it a legitimate existence. We see him, sir, insisting on the power to grant this charter, as conferred by the section that authorizes Congress to lay and collect taxes, and by the sweeping clause, "to pass all laws necessary to carry the preceding powers into effect," anything in his opinion, in the "Federalist," before cited, as to the harmless quality of the sweeping clause, to the contrary notwithstanding. Sir, we see him driven from these stands by the Attorney General, (Mr. Randolph,) and by the then Secretary of State (Mr. Jefferson,) the last of whom insisted that a proposition in the Convention to authorize Congress to grant corporations, had been rejected; which so thoroughly closed the case that we find Mr. Hamilton, although he questioned the authenticity of the document relative to the rejection (by the Convention) of the articles alleged to have been rejected, taking post behind that article of the Constitution, that "Congress shall have power to dispose of, and make all needful rules and regulations, respecting the territory, or other property, belonging to the United States," and insisting that the shares of the stock, contemplated to be subscribed by the United States, would bring the law, granting the charter, within that section which authorized the United States to make all needful rules and regulations respecting the property of the United States. But this would not justify the renewal, as Congress have sold their stock. Thus, sir, we find the advocates of this power in Congress to grant a charter to the Bank of the United States, fixing on a variety of the sections of the Constitution, from whence they infer we have the right; and although by the express letter of an amendment to the Constitution, Congress can exercise no power not expressly or specifically granted, yet these gentlemen insist we have the right, although they cannot agree among themselves on the article by which it is specified, and indeed each is an authority against the other, that the power is not granted at all; and although they all agree on its being Constitutional, they are as much at a loss to fix on the article by which it is made so, as the ladies of Strasburg were to decide on the

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gress, at the time of passing that law, had a right to make any law necessary for, and beneficial to New Orleans; it was then a territory, and by the positive provisions of the Constitution, Congress have the power to make all "needful rules and regulations respecting their territories or other property;" they have exclusive legislation over it, and may make any law that a State could, as to its government, as well as any law authorized by the Constitution to be passed by Congress.

Sir, by this charter, the directors of this bank were authorized to fix branches in every part of the United States, and when Congress became the purchasers of New Orleans, they considered it a portion of the United States, and of course that the directors of this bank had the right to establish the New Orleans branch bank, and felt no hesitation to declare it by law, as they had a perfect Constitutional right to make all needful laws for their territories, of which the Orleans Territory then was, and yet is one. Yet, sir, this act of good faith in the nation, to this bank, is pressed as an authority to bind this House to consider the constitutionality of this question as settled; but the good sense of this body will secure the United States from the calamity of re-chartering this bank, and committing the best interests of this nation to its foreign and domestic enemies.

Now, sir, having presented this view of the unconstitutionality of this question, I must beg the further indulgence of the House, while I present also my view of its inexpediency.

Sir, this charter is very nearly allied to the funding system; they had a coeval conception, and the same progenitors. They were conceived in sin, and born in iniquity. The funding system was founded in the basest of frauds, to the best of men, the war-worn soldier, whose necessities compelled him to part with his certificates, the price of his blood and toil during an eight years war; and out of which the arch-speculator, availing himself of those necessities had trepanned him at half a crown in the pound. These certificates, sir, were funded to the holders with their interest at par, and with other certificates for supplies for the Army and Navy, which had also depreciated, were funded at par. And although it was ably contended that the certificates granted to the original holders only should be funded at par, and that those held by speculators should be funded at a certain exchange, yet, sir, such was the influence of that well organized band, under the auspices of the then Secretary of the Treasury, that no discrimination could be effected whereby Congress might have been justified in saving the poor soldier for his loss, by being

Continental bills of credit which had been issued from time to time were to be funded at one dollar in the hundred. They, sir, were as a circulating medium in the hands of the people, who, however honestly they might have received them for supplies to the Army and Navy, at the same time, and at the same price that their neighbors furnished them supplies, for which they took their certificates, which this system funded at par for the benefit of speculators, while the holders of the bills of credit were funded at one hundred for one. Could, sir, anything but corruption have prevented the discrimination between the original holders of the certificates and the speculators; or have induced the funding of certificates (for supplies furnished at the same time and the same price) at par, that denied it to those holding the bills of credit?

This banking system was partly made up of these corrupt materials of the funding system, which composed a portion of its stock; was illegitimate in its conception, partial in its establishment, and corrupt in its administration; is a mammoth moneyed aristocracy, violative of the Constitution, of unlawful origin, under the control of foreigners, who have proved their principles, by the selection of its directors, *all Federalists*. This stock was to be subscribed at a *short day* in Philadelphia, convenient only to that neighborhood; it was partial. When, in Maryland, a bank is to be established by law, the proportion of each county is allotted it; books are opened, and the stock subscribed for in each county; and why were not books opened in each State, and their portions of the stock allotted to them as in Maryland? Sir, when we consider that the directors of the mother bank in Philadelphia are elected under the influence of foreign stockholders, to the amount of upwards of seven-tenths of the whole capital, we are not left much to conjecture, why these twenty-five directors are all of a particular political complexion, nor why a list of them, and of the directors of the branches, as required, has not been furnished, as an agent here had it in his power. Sir, I should have been glad of the list, as being pretty well read in the biography of the people of this country, I should have been enabled to have pointed out, I have no doubt, a number of traitors to the Revolution, Burrites, and embargo-breakers; the whole phalanx being at every stage of Republican Administrations of this country, with few exceptions, opposed to every measure of those Administrations. I am a little surprised at their temerity in asking and expecting a renewal of that charter by which directors have used their influence corruptly to control the measures of the Government, and the

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they did not, they need expect no more accommodation at the bank. We have seen at Baltimore their influence exerted in the memorable election between General Smith and Mr. Winchester, where Edward Johnson, now Mayor of Baltimore, and a bank director of the State of Maryland, and Mr. Matthews, now and often a bank director, were put out, because they had the presumption to think for themselves, and the temerity to vote for General Smith. These gentlemen were of unblemished reputation, and equally entitled to respect with their successors. I have not a single doubt but they did not suit the directors of the mother bank; they had supported a patriotic soldier of the Revolution, a sin of too deep a dye to be forgiven by this Britannic chosen band, who have lately put the seal to their principles in the election of Evan Jones, now president of the branch bank at New Orleans, who succeeds a gentleman of republican principles. This Mr. Jones is said to be a refugee from the United States at the commencement of the American Revolution, and a British officer, during that period, who has been lately more than suspected to be one of Burr's chosen band. If at a time when the directors are soliciting the renewal of their charter, they can thus outrage every principle for which our patriots bled, and prefer the patricide to the patriot, at a time when the eye of the nation was fixed upon them—what, I ask, after a twenty years' renewal of charter, may they not be expected to do, or how, in the case of a war with Great Britain, might they not be expected to act? How would a patriot of America be expected to act in supplying funds to our enemies to prosecute a war against this country? It would certainly be a treasonable adhering to our enemies, giving them aid and comfort. But, sir, we are told this is a harmless institution, all important to the fiscal concerns of the United States; influenced by no motives but the common good. Strange, indeed, would it be, to ascribe to the stockholders of seven-tenths of the capital of this bank, (reported by the Secretary of the Treasury to be foreigners,) and known to be Englishmen, a disposition friendly to this country. Sir, here is a strong foreign influence on the moneyed concerns of this country. Money has been correctly called the sinews of war; and are we to suppose that Britons are not as much attached to their country as Americans are to theirs, or that the strength and influence of this institution will not be put in full operation against us when it has been committed to the care, and put under the direction of men known to be in hostility to the best interests of this country?

Gentlemen on the other side however insist

the hands of twenty-five directors, elected by stockholders seven-tenths foreigners, to have the direction of twenty millions of dollars, when money is admitted to be the sinews of war, particularly when we consider their political complexion, and retrace their political conduct, cannot be safe to our republican institutions, on the score of its moneyed influence. But when we consider the patronage of these directors, who, by the charter, have a right to establish as many branches in the United States as they please, say one to each State, with the appointment of thirteen directors, a president, and seven officers to each branch, with as great accommodations as directors, and salaries to their officers averaging a thousand dollars a year each, making upwards of one hundred and seventy thousand dollars to their officers, and more to their directors—sir, this is a patronage greater than is possessed by the President of the United States. And will any gentleman who regards the solid interest of this country be disposed to give this aristocracy, organized as it is, and composed of such materials, the key of this Treasury with its privileges? I had always supposed that the Treasury of this country ought to be in the hands of Representatives of the American people; they are said to hold the purse-strings of the nation's treasure, and not that body who now directs this bank. Have they not denounced the Administration and every measure of the Government, and supported its most inveterate enemies? But suppose them to have been correct in all their measures, ought the nation's Representatives to give to foreigners, knowing them to be such, the immense advantages flowing from the renewal of this charter, or to one set of her citizens this benefit, which they have enjoyed for twenty years, in exclusion of her other citizens, who, to say no more, are equally entitled to the favors of Government?

If, sir, we have the power and feel it necessary to the fiscal concerns of the nation to have a National Bank, the eight million two hundred thousand dollars held by foreigners in its funds ought to be withdrawn, and that share of stock distributed among the States, having an eye to stock already held by citizens; so that the proportion of each State, agreeably to the relative census of the States, might be apportioned and subscribed, whereby the establishment might be purged of its foreign influence. But, it is said, these foreigners will send their gold to England. Can any man of sound judgment suppose they would transfer their capital to England and take four per cent. in England, and that in paper, when they can loan their money in this country, at six per cent. and get the interest in specie?

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England, at its establishment, and frequent extensions in its accommodations to the British Government; and that the derangement in its fiscal concerns had forced these extensions on that Government. He also well knew that when the two insurance fire companies, "The London" and the "Royal Fire Insurance Company," were established with a capital of four hundred and fifty thousand pounds sterling each, they gave as a bonus to the British Government one hundred and fifty thousand pounds each, and yet this experience was not turned to the benefit of the United States; but this charter was granted without any benefit but to speculators, who were holders of the funded debt, which was made a part of the stock of this bank. Sir, in the provisions of the law for the establishment of this bank, whose capital was to have been ten millions of dollars, the stockholders were so favored, as to be permitted to go on as soon as four hundred thousand dollars were paid in, (one-twenty-fifth part of the capital,) and thus on that small sum they proceeded to business and received an interest on fifteen millions of dollars; and so much in conclave are its concerns, and so much under the control of men of a particular political complexion, all the directors of the mother bank at all times have been Federal or worse; many of them Tories or monarchists; so that, as to its secrets, it might be compared to the inquisition, and being under such control I have ever doubted the statement of its funds. Sir, the humiliation of having such an assemblage of characters selected by foreigners to select directors for the branches in each State has ever been truly grating to the honest feelings of Republicans, and violative of the rights of the States, to whom an independent Republican Government has been guarantied.

Sir, there can be no necessity for this bank. The State banks are abundantly sufficient to supply every requisition, if the United States deposits are made in them. This goes all lengths to defeat the arguments of gentlemen, predicated on the principle of necessity, as vesting this power in Congress. There are banks in Baltimore alone with a nominal capital of eight millions two hundred and eighty thousand dollars, four millions nine hundred thousand dollars of which is paid in; and if a nominal capital of the United States' Bank of ten millions of dollars, with four hundred thousand dollars only paid in, could begin and progress in business, is it possible to doubt that the banks of Baltimore, with four millions nine hundred thousand dollars paid in, already in operation, could not go on, with the

honestly and impartially as the United States' Bank has been conducted, and under the direction of men the United States may as safely trust, and on whom the public may as confidently rely for accommodation; unless, peradventure, some gentlemen might repose more confidence in foreigners, than in their own citizens; but I hope and trust there are none such within this sanctuary of the liberties of the nation. We have been told by a gentleman from New York, (Mr. Fisk,) that agriculture, commerce, and manufactures, will receive a vital stab by suffering the charter of this bank to expire. This is a groundless phantom, produced by the feverish fancy of this gentleman laboring under the bank mania; but, sir, if agriculture, commerce, and manufactures, were to feel it, in the extent suggested by the gentleman, I trust those classes of our fellow-citizens would bear it with fortitude, when they reflected that it could not be renewed but by a violation of the Constitution of the United States—a violation of the rights of the States, to whom is guarantied an independent Republican form of Government, and perhaps a violation of our independence; for which the best blood of our heroes was shed on the altar of liberty. This charter is a cancer on the body politic, which I hope we shall suffer the hand of time to eviscerate and eradicate, and no longer suffer any foreign agency in the regulation of the internal affairs of this country; and that we shall preserve our fiscal concerns from the influence of those whose interest it is to destroy them. But we are told, by the same gentleman, that the Secretary of the Treasury, whom he calls the Chancellor of the Exchequer, has reported this bank as necessary to the fiscal concerns of this country; and I suppose, by giving the Secretary of the Treasury the title of Chancellor of the Exchequer, he wished to impress this House with the powers of that officer in England, to give an imposing influence to the Secretary here: and while he advocates the interest of these foreign stockholders, he so far forgets himself as to introduce into our Government a Chancellor of the Exchequer; but I hope we shall exercise our own judgment, and be satisfied with our own Government, organized as it is, disregarding the principles of foreign Governments, and the interest of foreign stockholders. Sir, we are told by the same gentleman that Congress sold to foreigners two hundred thousand dollars of the stock in this bank but a few years ago; and, therefore, we ought to renew the charter. Sir, the purchasers knew the tenure by which this charter was held, and the precise moment of its death; they bought

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at New Orleans? Sir, money is not paid in large commercial transactions, and, if it were, would it not be an easy matter, if a merchant has Boston bank notes, to get the specie for them, and send that to New Orleans? How, I ask, would he do if he wanted the money at the Havana, or any foreign port? And why cannot he do the same at New Orleans? Sir, this is the common lot of merchants? But, sir, if the gentleman has Boston United States' branch bank notes, could he get gold for them at the New Orleans branch bank? No, sir, and a gentleman who had five hundred pounds of the United States' mother and branch bank notes, might have to travel to every State having a bank, to get the specie, as neither will give specie for the paper of the other, and are to that purpose foreign to each other. Indeed, it has been suggested, as a practice, to secure the bank from a pressure for specie, to circulate the Eastern notes to the West, and so, *vice versa*, whereby the holders, on the fourth of March, will be put to great inconvenience in procuring specie for them. Sir, the people of England had no national bank till the year sixteen hundred and ninety seven, less than a century before the establishment of this bank, and they were enabled to conduct their great commercial concerns, to great advantage; and as the United States had an extended commerce before the establishment of this bank, I trust her merchants will be able still to conduct advantageously their commercial concerns, without our sacrificing the Constitution we are sworn to support, or being tributary to foreigners, whose interests I never can respect, when in collision with that of the American people.

Mr. Boyd said he was unwilling to give his vote on the question of indefinite postponement, without offering to the House, and those that he in part represented, his sentiments. I shall vote, said he, for the postponement; and, should that vote not prevail, then against the bill in its present form, and every other in which it may be presented to me for a renewal of the charter of the Bank of the United States, predicated on the original grant; because to my mind it is unconstitutional. And here, Mr. Speaker, you must allow me to go back and take a look at the time and manner of its creation, and how it originated. To my mind it was created in aid of the funding system—and what was that debt so created, not contracted? Was it for the redemption of the bills of credit called Congress money, that paid your Army in the field; fed and clothed them for years? No. Was it to redeem said bills that were paid to the farmer for his flour, beef, teams, hay and supplies to the Army? No, no, sir.

on this floor. Well, next the Constitution is formed, and Congress set themselves about paying the debts of the United States, and some part of the several States' debt. Mr. Speaker, how was it done? Runners go out in every direction to purchase those liquidated certificates, and they succeed, at 2s. 6d. in the pound value up to 8s. All the certificates funded did not on an average cost the purchaser more than five shillings in the pound. Now, sir, the bills called Congress money, are all, or next to all, sunk in the hands of the holders, and fifteen shillings in the pound of the residue. Now, sir, an act of general justice takes place! The said certificates are funded at 20s., or their nominal value to the speculator; and an interest of six per cent. per annum given to him; to pay which, duties are laid, and money borrowed to pay the interest in advance of the revenue. A charter is now granted for a bank of ten millions of dollars, seven and a half millions of which was to be this aforesaid State paper, and two millions five hundred thousand in specie; and when a small part of that was paid in, they were allowed to begin their discounts and issue their paper to double the amount of the whole capital! viz: twenty millions; these certificates drawing six per cent., making seven millions five hundred thousand of the stock. Now, this part must, according to this statement, give to the stockholders eighteen per cent. for the deposit of this State paper, and twelve for the residue. Now, Mr. Speaker, I will ask where was the redemption for these bank notes so issued? Surely not in the bank, for that was seven and a half millions State paper as above, drawing six per cent. Not in cash, for that was not supposed to be there. Therefore, to my mind, this was a great deception; swindling I will call it. Ah! but, say some, by this means you were furnished with a capital and enabled to carry on commerce to a great extent. I deny the fact; our capital was the produce of our soil and industry. Banks, at best, are no more than a convenience to merchants; and I respect honest merchants; they are useful and necessary, but I do not include bank stock jobbers, or men calling themselves merchants without a capital, mere drones in the hive. No, sir, the latter is a moth to the Commonwealth.

It appears to me, that this scheme of banking is an evil in its operation something like the faro table, always in its operations, at each round, depositing six per cent. to the stockholders—for what? The exchange of a note discounted, and the note so lodged the best of the two! Ah, and is this indeed the capital of our country? Sir, I am lost in the chicanery. The banks enable us

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believe not. Then, again, let me suppose that, on an average, the whole length of our country be cultivated to the distance of two hundred miles from the seaboard. Then, it appears, that the average distance that we have to take all our transportable produce is one hundred and twenty-five miles. It is believed that the cultivated distance is, on an average, nearly four hundred miles, which will enhance the price of transportation mostly by land to the cities. Now, sir, at the general price, one-third, and, in some cases, one-half, is expended in getting the produce there. But this is kept out of sight, and much said about high and great prices obtained by the farmer. It is nominal, not real. It is paid them in depreciated bank paper. Sir, I do contend that not only the bank paper is depreciated, but that, by the means of its abundance, the gold and silver is depreciated. One dollar, eight years since, was worth more than one dollar and fifty cents is at this day. Besides all this, I ask, is there cash in their vaults to redeem their bills? No, no, sir, not for one-half. Thus, sir, are the people swindled out of their property to support gambling and chicane. Is this what enhances property and gives a capital to carry on commerce? No, for myself, I think not. It is the product of our soil and our industry that is the capital, and on that we do and ought to trade; and that trade ought to be internal, turned to our own manufactories in a great part. I do not say that banks are not convenient and useful to a certain degree; but I do not think that the advantage is equal to the disadvantage. I am well aware that such sentiments will be treated with ridicule; but, sir, that does not intimidate me; they are my sentiments, and as such I give them, without the least fear of intimidation, having in view the happiness of my country; and I will venture to say, that the day is not far distant, if we progress as we have done with banks, that the country will experience an universal shock from this false capital. Before you, sir, are propositions for charters of incorporation within this District for banks to the amount of four millions. Can there be a want of capital? If there is, how is this stock to be furnished?

Mr. Speaker, we hear from Richmond, Baltimore, and Philadelphia, much said against the renewal of the United States' Bank charter, and I agree with them; but, I believe, from very different principles. The profits of this bank have been, from its issues and the deposits of the revenue and private individuals, immense, and they want the cards in their own hands to play the same game. I think they are not entitled to

be created in the District of Columbia, and to extend branches into such States as, by law, would choose to accept them. Sir, I had much more to say on this subject; but I perceive that the House is impatient, and I do not wish to detain it, and shall add no more.

Mr. McKee.—Residing as I do in a part of this country, remote from the scene of bank operations, I had determined to say nothing on the subject, contenting myself by giving a vote, flowing from the honest convictions of my heart; but the extraordinary manner in which this discussion has been managed on the part of the opposers of the bill, by attempting to make it a party question, has compelled me to commence my defence of the vote I expect to give on this motion. So far as I know, or believe, my suffrage in favor of a renewal of the charter of the United States' Bank is in conformity with the views and wishes of the people whom I have the honor to represent; and any change in their sentiments which might be effected by the frequent appeals to their passions and prejudices, made in the form of argument, it becomes my duty to correct.

We are arrested in the threshold of this discussion by a Constitutional objection, by which it is alleged that Congress do not possess the power of renewing this charter. I had thought this question long since settled, not alone by those who originally granted the charter, but confirmed by Mr. Jefferson and the votes of a Republican Congress. I have been led to this opinion by a recurrence to the act of Congress of the 23d of March, 1804, by which the President and Directors of the Bank of the United States are authorized to establish offices of discount and deposite in any of the Territories or dependencies of the United States. A gentleman has said, this was a power possessed originally by the bank. If so, for what end was this law enacted? It must either have been enacted from an opinion that the charter could not, without this aid, be extended to New Orleans, or that it was proper and necessary, in order to the well management of the fiscal concerns of the country, that this institution should be extended to New Orleans. Either case answers my purpose; for, if the bank could not, without this act of Congress, establish an office of discount and deposite at New Orleans, (which seems to be the better opinion,) then the passage of a law extending the influence, the power, and the profit of the bank, cannot be considered in any other light than a tacit and full acknowledgment, on the part of Mr. Jefferson and the Republican Congress, that the charter was within the pale of the Constitution. For, sir,

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tion of taxes at that port, this circumstance admits the only fact necessary to be in proof to establish the power of Congress to pass the law.

If, sir, any additional proof could be wanting to show that the power of Congress, under the Constitution, has been considered sufficient by this Administration, to authorize them to grant the charter in question, it is abundantly furnished by the act of Congress of the 24th of February, 1807, for the punishment of frauds committed on the Bank of the United States. By this law Congress have subjected the citizens of the United States to capital punishment, for counterfeiting the notes of the United States' Bank. Now, if Congress, by the Constitution, have not the power originally to grant this charter, the notes of the bank were certainly issued in violation of the supreme law of the land, and Congress had no power whatsoever to pass a law making that criminal which was in itself no crime, and could not, by any conception whatever, be considered as a violation of any law of the United States. It seems to me to be perfectly paradoxical and absurd to say that any institution, having no legitimate right to issue paper, nevertheless has a right to the interposition of Congress in their behalf, making it a crime against the United States to counterfeit this paper, which was issued in violation of the supreme law of the land. Under this act of Congress the citizens of the United States have been deprived of their liberty as well as subjected to heavy fines, by the decisions of your courts. A citizen of Kentucky has been doomed to confinement in the jail and penitentiary house for a violation of this act of Congress, and he was not relieved from the fangs of the law by the President, (Mr. Jefferson.) How are these things to be reconciled on any other ground than by admitting the Constitutional validity of the original act granting the charter?

But it has been stated that this charter, when originally granted, operated in the nature of a contract, and that Congress could not repeal the act of a former Congress granting a charter, and hence the power to make, and propriety of passing, the act in question. This idea is altogether fallacious, because it is an indispensable requisite to all contracts that the parties thereto shall be *able* to contract. If the Constitution vested no power in Congress to make the contract, it was absolutely void; and if the Congress of 1807 were thus impressed, they could not and would not have passed the law in question, and therefore I infer that they considered that the Constitution had vested Congress with the power to grant the charter.

In addition to this we find that the present

circumstances have led me to suppose this question had received the ratification of every party and of every Administration, and, what is still of more importance and higher authority, the sanction and confirmation of the sovereign people, and therefore considered as an adjudged case, tested by experience.

I shall not consume the time of the House by any enumeration of the powers of Congress, arising from the Constitution itself, with a view to prove that Congress originally had the power to pass the law granting this charter, and still possess it, because this ground has already been occupied with great ability, and the power of Congress to pass the bill clearly shown, and, any remarks which I might make, would only be a repetition of the arguments of others. I shall, therefore, content myself by answering some objections made to the bill.

It is said the bank will be a thorn and a viper in the bosom of the United States, which will, ere long, sting the political liberty of this country to death. This is a strong charge, and, if it be found true, it must be conclusive against the bill. But, let us examine this bold assertion by the test of reason and experience; this charter was given by Congress twenty years ago; since that time the Constitution and the political liberties of this country have been in the hands of our political opponents, and are now in our hands *unimpaired*. The country has, in the latter period, been prosperous beyond example; agriculture has prospered, commerce has flourished, internal improvements have increased, the people have enjoyed peace and prosperity, security and happiness, in a degree infinitely superior to that of any other nation on earth. No deleterious consequences have grown out of this institution, affecting the security or liberty of the citizen or the country. It is said, and truly, too, that ours is a Government of experiment, none similar to it ever having existed before. Here, then, is the test of experience in favor of this institution, and why discontinue it to try some devious and unknown track?

But, sir, suppose there is something of truth in this statement: I ask if State banks are not equally as dangerous to the political liberties of the States, as this bank can be to the United States? And if the political liberties of the States are stung to death, I ask where will you find the liberties of the United States? I believe they will sink with the liberties of the States. But, if gentlemen are really serious on this subject; if they believe that banking is fraught with thorns and not with roses, and wish to return to the state of native simplicity which existed in the pure ages

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influence, those times have changed. Experience, the best possible test of human affairs, does not bear gentlemen out in this assertion. On examination we find, that the States of Rhode Island, Connecticut, and Delaware are the only States in the Union who are represented in the Senate and in this House exclusively by Federalists—yet there is not now and never was a branch of this bank in either of those States. But there is a branch bank in Georgia, South Carolina, Virginia, Maryland, New York, and Massachusetts, and the mother Bank in Pennsylvania. The two first are exclusively Republican States, and those parts of all the others (except Massachusetts) where those banks are seated, are represented on this floor by Republicans; whence then are found the facts to prove this assertion—or do gentlemen pursue a recent example, set by a certain great man, of giving opinions, when, with the same breath, it is acknowledged there exist no facts on which they are founded.

The foreign capital employed in this bank is a ground of great alarm to some gentlemen. In answer to this objection, I would ask, if it ever has been, or if it is now the interest or the policy of the States or the United States to exclude foreign capital from being received and employed in your country? Do you find any provision in the charters of the State banks, prohibiting foreigners from becoming stockholders? Is there any provision in those bills from the Senate, establishing half a dozen banks in the District of Columbia, prohibiting foreigners from becoming stockholders? To all these questions you are compelled to answer in the negative. So long as the profits of agricultural pursuits or commercial enterprise furnish the adventurer with a good profit over and above the price he has to pay for the use of the capital employed, just that long will he continue to employ it; and, if the capital is not to be found at home, application will be made for it abroad; and whenever capital becomes redundant at home, you will then exclude foreign capital. Before that time the attempt would be unavailing; for capital, like air or water, will seek its level. I have thought that foreign capital in this country would have had rather a salutary tendency, inasmuch as it would interest men of influence in the preservation of the peace and perpetuity of the Government. Mr. Jefferson must have been thus impressed; or how could he have permitted a sale of the bank stock of the United States directly to Englishmen—and he was certainly not chargeable with a predilection in favor of British influence. There is in England a class of men favorable to the prosperity of this country;

agement. I had thought it universally understood and admitted, that the management of this great moneyed institution had been exemplarily correct, and I have not before heard anything of the kind laid to their charge. But, even admitting the charge to be true, it only proves, what may I believe be alleged and proved against every human institution administered by man, viz: that the institution, as well as the administration thereof, is imperfect. But I ask if the directors of three-fourths of the State banks in the United States are not Federalists; and therefore why not put them down in mass?

I beg leave to notice an argument which has been resorted to by all the opposers of the bill, when they have been told that the bank was both necessary and proper to the convenient and advantageous management of the public revenues. The answer has uniformly been, that this difficulty could easily be obviated by the agency of State banks. This, sir, is certainly begging the question; because an admission that bank agency is necessary to the collection of your revenue, and proper to be used in the management of the moneyed concerns of the Government, is an admission of the only fact necessary to be in proof to show conclusively the power of Congress to pass the bill in question. Besides, do not all the unhappy consequences, which, it is said, await this bank, attend the depositing your money in State banks? Will you not thereby give a circulation to the paper of the bank where you make your deposits greater than heretofore? and, by increasing the circulation of their paper as well as by aiding them with your money to make more extensive discounts, you increase the profit and value of the stock. This circumstance will create an anxiety with all the State banks to obtain your deposits, and hence the United States, if they are so disposed, can operate through those favorite banks as effectually on the people of the States as they could by the United States' Bank. You have all the evils of the United States' Bank without any of the advantages; you also throw into circulation a heterogeneous mass of paper, that nobody knows anything about, issued by establishments of whose solvency you know nothing. Will the gentleman from North Carolina or the member from Massachusetts willingly receive their per diem in their own State paper? I believe they would not—yet the effect of using State banks for revenue purposes will be to impose this paper on the people of the United States.

It is a rule, sir, which I have prescribed to myself, in the management of the concerns of others which may be committed to my care, in any char-

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distress will fall with accumulated weight on those who have poverty and the frowns of fortune to struggle with, is evident; and when I commiserate the woes felt by the citizens of every part of our country, my attention, as it ought, is particularly drawn to the losses and distress which will be felt by my immediate constituents.

If this charter is not renewed, it is my deliberate opinion that the farmers of Kentucky will sustain a loss thereby to the amount of near \$200,000; and I will now attempt to show that this opinion is not altogether chimerical. I am unable to state with any great certainty what is the amount of circulating medium of the United States; nor indeed is it necessary for me to state with great accuracy the precise amount. I suppose the whole circulating medium of the United States to be upwards of \$50,000,000, and that of this sum the Bank of the United States circulates one-third. It is a fact frequently stated in this House, and which stands undenied, that money or circulating medium is scarcer in the United States at this time than it has been for several years past, owing perhaps to the unproductiveness of commercial enterprise, or, if you please, to the natural increase of population, and the proportionate increase of demand for money. By refusing to renew the charter you throw out of circulation one-third of the money of the country. The necessary and inevitable consequences of this act of the Government will be to diminish commercial enterprise in the same proportion, and consequently ship-building and ship-repairing will be diminished in a like proportion, and the materials for this service will not be wanting. By letters recently received from very intelligent merchants of Lexington, Kentucky, I am informed that 6,000 tons of hemp will have been raised in that State in the present year. The ship-owners are the consumers of this article, for not a pound of it goes abroad, and from six to nine thousand tons of hemp is the quantity consumed in prosperous times in the United States. These 6,000 tons of hemp, together with what will be brought to the market from other States, will furnish an abundant supply for the present year, even admitting it to be a prosperous year. By the refusal to renew the charter you lessen the demand one-third at least, and consequently you diminish the price of the article in the same proportion. But, sir, this is viewing the consequences arising out of the rejection of this act in the most favorable light. If the refusal to renew this charter should, as some gentlemen apprehend it will, bankrupt not only many individuals, but also some of the State banks, a general alarm may take place, which would for a time put an end to all credit and to

surey, appointed since the adoption of the Constitution, in his argument on the subject, decidedly declares that the bank is necessary for the collection of the taxes and management of the fiscal concerns of the United States; and Mr. Gallatin, the present Secretary of the Treasury, makes substantially the same declaration to you in his report on this subject.

[Mr. WRIGHT observed, that Mr. Gallatin had, in conversation, said that the moneyed concerns of the Government could be well managed without this bank.]

If Mr. Gallatin has so said, he then says one thing, and reports a different thing, and is therefore inconsistent. But I take his official report as the best evidence of his opinion; and these men having been charged with the management of the revenue for many years, and having the knowledge acquired by experience, certainly should know what is necessary and proper for the convenient and well management of the affairs of their department; and are therefore better authorities on the subject than any member of this House.

As to the remark made by some gentlemen, that this is a party question, I have only to observe that, if Federalists do right, that can be no sufficient reason for me to do wrong, merely to oppose them; and if the suggestion that this is a party question is to prevail against reason and common sense, and parties are thereby to be marshalled against each other under the banners of some leader, then, indeed, anything that can say ay, or no, is perfectly qualified to be a member of this House, and intelligence is laid aside as useless and unnecessary. Against doctrine of this sort I protest. And perceiving, as I think I do, great political as well as individual inconvenience and distress awaiting a refusal to renew this charter, which is not compensated by any correspondent public good; and perceiving, also, in the destruction of this institution, a want of stability in your institutions which is a partial verification of the predictions of the enemies of republican government, which we ought to refute by our acts—I shall, therefore, vote against the indefinite postponement of this bill, reserving, however, to myself the right of subsequently examining the details thereof.

Mr. BARRY.—Mr. Speaker: The measure now under consideration is certainly important. It involves principles interesting both as they relate to the General and State Governments. The solicitude manifested for the renewal of the charter; the deep concern that is felt in some of the States; the serious and solemn manner in which this subject has been considered and acted upon by

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marks of my colleague (Mr. McKee) will not permit me longer to remain silent. As it is my lot to differ with him on this great question, I must claim the indulgence of the House for a few moments, while I endeavor, in as concise a manner as possible, to state some of the reasons by which I am actuated.

The bad effects to result from the dissolution of the bank, the ruin that is to follow in its train, have been portrayed in the most glowing colors, in a manner calculated, as it was no doubt designed, to awaken and alarm our fears. I shall not now enter upon this branch of the subject.

If, as I am most seriously impressed, the Constitution does not authorize us to pass the bill, there is at once an end of the question. It is, Mr. Speaker, immaterial what consequences may result. No pressure of calamity, however great, can warrant a departure from, or violation of, that sacred instrument.

It has been said that this is a party question. The remark is just, so far as the principles which separate and distinguish the two great political parties in the United States shall be made to bear upon it; not that the declaration of any man can make it so. It is measures, not men, that should govern.

It will be recollected that early in the history of our Government the country was divided into two great political parties, the one endeavoring to extend and increase the powers of the General Government, the other attached to the State authorities, and exceedingly jealous of their rights. Under this state of things the Constitution of the United States was framed. Soon after the Government went into operation under it, these parties again displayed themselves in the rules they adopted for expounding the Constitution, the one contending for that kind of interpretation which would possess Congress with the most ample powers, sufficient to do whatever political expedience might dictate in providing for the common defence and general welfare.

This latitude of construction was considered by the other party as dangerous; that it would tend to consolidation; that in this way State rights would be encroached upon and their sovereignty impaired. They contended that the power of Congress was limited; that it must be confined to those powers expressly delegated, and to such as were necessary and proper to carry them into execution. That this mode of construction resulted necessarily from the nature of the General Government, but was settled beyond all doubt by that clause in the Constitution which provides, "that all powers not delegated to the United States by the Constitution, nor prohibited

in the year 1791, when the bank charter was granted, we find the most distinguished politicians of that day, who were on the Republican side, opposing it; and they did it under the guidance of those sentiments that had originally given rise and character to the party. For although they did not admit the utility of the banking system, yet the great ground of opposition—the strength of their argument—was directed against the power of Congress to pass such a law. It was, sir, upon that occasion that Mr. Madison, then a member of Congress, made that perspicuous and luminous argument that has been so justly celebrated as defining and marking out the proper limits of power assigned to the General Government. I have thought proper to make these preliminary remarks to show what was the understanding of this measure at the time of its adoption. That it was then protested against as unconstitutional. Two articles of the Constitution seem to be mostly relied upon by those who are in favor of the renewal: That which gives to Congress the power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; or, in other words, the power by which Congress is to regulate the financial concerns of the nation, and that which gives the power to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States.

It has already been shown by gentlemen who have preceded me, by a course of reasoning to my mind unanswerable, that the clause which enables Congress to pass all laws necessary and proper to execute the specified powers, must, according to the natural force of the terms and context, be limited to the means necessary to the end, or incident to the nature of the specified powers; that this clause was in fact merely declaratory of what would have resulted by unavoidable implication as the appropriate and as it were technical means of executing these powers. It was further contended, that the true exposition of a necessary mean was, that mean without which the end could not be produced. If this doctrine is correct, it puts the question at rest—as it has been most clearly shown that a bank is not a necessary mean according to this exposition. I shall not dwell longer on this head, considering it as already exhausted by argument. The word "proper" is, in my mind, an important and operative word in this clause of the Constitution. The incidental power to be exercised must not only be necessary, but proper; that is, it must be appropriate, and confined to the end in view. If it goes be-

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To enable Congress to collect taxes, offices of deposite merely would be sufficient. But instead of confining the incidental power to be employed to the object it is designed to accomplish, you introduce a new system of policy, that has no more connexion with the management of the revenue than it has with the power to borrow money on the credit of the United States, with the power to regulate commerce with foreign nations among the States, and with the Indian tribes, or than it has with the power to raise and support armies, or provide and maintain a navy. The power to establish a bank applies equally as an incident to all the above-named powers, and is not strictly appropriate to either, nor is it confined to all of them collectively. If, under such pretence, you can erect corporations, your power in this respect is unbounded.

By this act you form a society of individuals, invest them with extensive and exclusive privileges, who, instead of being employed as auxiliaries in the fiscal arrangements of the Government, set up for themselves and go on upon a system of money making. They issue notes that become a circulating medium and forms a new species of capital. The institution carries with it a train of officers, influence, and patronage. It gives rise to an act of sovereign power, that no Government should ever be permitted or can derive by just implication—that of punishing those who may counterfeit the notes of this bank. Thus introducing into our code of laws a system of criminal jurisprudence never contemplated by the Constitution.

It will be seen, as we progress in this inquiry, how this measure is calculated to affect the State rights and to infringe upon their sovereignty.

If it is good policy to establish banks, and I am inclined to think it tends, when properly regulated, to promote the interest of society, the States will surely have a right to claim the benefits that may result from it—because this right they never have parted from. The profits arising from discounts, the advantage to accrue from public and private deposite, and the many facilities this kind of institution affords to society, belong to the States, and ought to be exclusively under their control. The objects of State policy are infinitely more numerous than those of the General Government, and deserve equally to be promoted.

It is said that the States are at liberty, if they choose, to establish banks; this does not remove the objection; if the right is impaired, it is the same in principle as if it were denied. A branch bank of the United States will always have a predominant influence. They will have the benefit of a large capital; but the great source of

them now feel at its expected dissolution. It is said that no danger of this sort is to be apprehended; that those who have had the direction of the United States' Bank, have conducted it properly, and with liberality. This affords no guarantee that they will continue to do so. Bank directors have the same passions and prejudices that other men have; the same feelings of jealousy and rivalry exist in corporate bodies as with individuals; the same struggle for power and disposition to oppress. State rights require the guardianship of the Constitution; they are not, I trust, to be left to the mercy of a bank directory.

It would, sir, be less objectionable, if the Bank of the United States diffused its benefits equally throughout the different States. But instead of this equal and just distribution, it will be found to be confined and partial in its operations; its benefits will be principally confined to the seaports; it can only be made to operate indirectly upon the agriculturist and manufacturer. The direction of this institution will be entirely in the hands of commercial men; all its power and influence will be lent to them. This, combined with the power their wealth naturally gives them, has heretofore, and will continue to give them a decided ascendancy in the Councils of this nation. It is believed that this kind of influence has had its effects in producing our existing embarrassments with foreign nations. Sir, the slightest attention to our public acts will show that there has been a great predilection for commerce; that it has met with almost exclusive protection and support; whilst little or nothing has been done for the internal industry of the country—large sums of money have been expended for the promotion of commerce, whilst our infant manufactures have been suffered to pine and languish. The enterprise embarked in this way, never having experienced any kind of encouragement from the General Government. It is time to remove the causes that gave rise to this partial influence.

The power of the States is affected by this measure in another important respect. By its means, individuals, who are mostly foreigners, hold large estates in stock, without being in any way subject to the control of the State government, or paying any tax for its support. Is it just that such exclusive privileges should be conferred? Is it proper that these men, not the most meritorious, should be entirely exempt from the burden of taxation, whilst the true citizen is bound to yield his personal and pecuniary aid?

Another formidable objection that presents itself, is the connexion of this institution with the Government—a dangerous source of influence

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plies utterly incompatible with the genius of Republican institutions. Loans may be had to enable the Government to pursue their projects; expensive establishments may be created and kept up in this way, that the people never would have tolerated, had they been directly called on for their contributions. The ease it would afford of getting money would be the cause of repeated applications to this source; and we may readily perceive how a debt thus created will be constantly accumulating. Upon this subject we have the light of experience to guide us. The English nation presents a sad example. It is true the proposed capital is too small to create much clamor at present—but renew this charter, and it will be augmented as convenience shall dictate. The capital of the Bank of England was small at its first establishment, but it increased gradually as the exigence of the Government required.

Sir, whenever the Government shall have become largely indebted to this bank, it will have acquired an influence over our councils, the idea of which is humiliating; an influence that would not only be degrading, but one that would endanger our liberties, by subjecting us to the control of a moneyed aristocracy. Permit me now, sir, to notice a few of the arguments that have been advanced in favor of renewal. It is said that the practice of this Government is against the rule of construction we contend for: as an example, the act concerning light-houses, beacons, buoys, and public piers, has been cited. This is referred to the power of regulating trade. This act is in truth only a mean to carry into execution a power; it is distinguishable at the first glance from the power to establish a bank. They only tend to promote commerce; they are strictly necessary and properly confined to the object. They go no further than the end in view, not at all impairing the rights of individuals or of the States; besides, there is nothing in them uncongenial with the nature of our Government.

It is further contended that the law now attempted to be renewed has been sanctioned by the States, and acquiesced in by the people. That, although it might not originally have been necessary, it has now become so. I can see strong reasons why this act granting a charter should not be repealed, although unconstitutional. The system had been introduced; a pledge was given to the stockholders; they invested their funds upon the faith of its continuance for twenty years; it was a contract for that period; to have violated the public faith would not perhaps have been consistent with sound policy. There is a difference between repealing the law and suffering it

to be repealed for the same reason. It is one of the first principles of a representative government, that a subsequent legislature have the power to change the measures of a preceding one; and it often is necessary they should do so. No State has ever sanctioned this law by a direct declaration to that effect. Their approbation has been inferred from their having passed laws to punish counterfeiters. Sir, the States cannot repeal an act of Congress; they could not prevent the circulation of the notes of this bank. It was therefore essential to pass such laws in order to secure and protect their own citizens from fraud and imposition.

It seems clear to me that an act of Congress not originally Constitutional cannot be made so by any lapse of time. If in 1791 it was unconstitutional, it must be so now. The Constitution does not change with the times. A Republican Administration should not be permitted to exercise a power that they would have denied to the other party. The love of power is natural; man is prone to abuse it. I confide much in those who are at present at the helm, but I will not trust them beyond the limits of the Constitution. "With unremitting vigilance, with undaunted virtue, should a free people watch against the encroachments of power, and remove every pretext for its extension."

The evils to result from the dissolution of the bank, have, in my opinion, been greatly exaggerated; but, sir, this alarm, if real, impresses my mind differently from what it does that of some others. The deep interest excited; the feelings that have been awakened; the memorials constantly flowing in upon us, show the important bearing of this institution and the great interest it has already created.

If we look forward to a period when this charter is to expire; if ever we intend to shake off this illegitimate offspring, now is the lucky moment; its embrace though strong is not deadly. Although some of its advocates threaten, and endeavor to coerce us into the measure by the alarm they have excited, the stockholders yet approach in the respectful attitude of memorialists; we are yet at liberty to act freely; but if this charter is renewed, depend upon it we shall not be able hereafter to stop its progress. Pretences will not be wanting to extend its limits and augment its capital. The poison already tasted would soon reach the vitals of this Government; our efforts hereafter for relief will be fruitless; they will only serve to irritate and inflame, until at length it will be found that we must tamely submit.

Mr. FINDLEY.—That Congress have a right to

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another National Bank to be instituted, (which he knew was the wish of some members who were opposed to the present one,) very great distress, both public and private, must take place in the mean time, without a certainty of being better served in the end.

Whatever might be said on the ground of expediency against renewing the charter, he had been much astonished to observe the bill so much opposed as being contrary to the Constitution. When the law for incorporating the bank passed, it was opposed in the House of Representatives by a minority—about one-third of the members voted against it. Though he was not then a member, yet he attended to the discussion, and he knew that those who led the opposition were equally opposed to all State banks, of which there were then but three in the United States, and none of these were instituted "to promote the regular, permanent, and successful operation of the finances of the State," as some of them at least have since expressly been. He was sure that the Bank of North America (the first that had been incorporated) was, perhaps, from the circumstances of the times, considered rather as injurious than beneficial to the State; therefore, that a bank should be useful in conducting the revenues of the United States, was at that time, in the opinion of many, at least doubtful, or a mere theory. But, no sooner was the experiment fully made, than all parties acquiesced in its constitutionality and usefulness. Its constitutionality has been recognised by all the branches of the General Government, through all the changes of parties and Administrations. This could be made evident by numerous instances.

It is true, an honorable member from New York (Mr. PORTER) has denied this, and alleged that the reason why it was acquiesced in, or not repealed, was, because it was a contract which it was necessary on the part of the Government to fulfil.

Mr. F. said that a contract contrary to the Constitution was void in itself, especially where no consideration was given; that our courts of justice, who were judges, both under the law and the Constitution, would set such contracts aside—much more an act of incorporation for which no valuable consideration had been paid, as the consideration only consisted of the services that were to be rendered, and which, if contrary to the Constitution, ought not to be accepted. So far, however, have the courts of justice been from setting this law aside, that both Federal and State courts have, under the authority of both the Federal and State laws, made decisions for its protection. Or if it had been contrary to the Constitution

exclusive monopoly in perpetuity. Another company, in 1784, applied for a charter. The Bank of North America opposed their claim with success, in right of their charter. The succeeding Legislature considered the *exclusive* right and the *perpetuity* to have been granted in violation of the Constitution, and therefore repealed that charter, and afterwards granted a limited charter to the company. Political parties have changed since the United States' Bank was incorporated—those that now prevail have been the majority about half the time—yet, so far have they been from repealing the charter, that they have extended its powers and availed themselves of its accommodations. It was a mistake to consider the authority to incorporate the bank to be a separate and distinct power, and therefore not granted to Congress. It was not even, as some members have called it, a constructive power, or power by implication. It was inseparably included in the powers expressly granted, as the means to accomplish the end; for it is in all cases admitted, that where an object or duty is enjoined, the means of accomplishing the object or of performing the duty are included. This is too plain to require proof or illustration.

The powers vested in Congress, or the duties enjoined, are, to lay and collect taxes, duties, imposts, &c.; to pay the debts of the United States, &c.; and the object prescribed is the public good and general welfare of the United States. They have also the power to provide for raising and supporting an Army and Navy, and for borrowing money on the credit of the United States.

Surely no member will say that the safe-keeping—the most cheap and certain manner of collecting the revenues, and the most expeditious and the least expensive manner of transmitting them to the destined places, and paying them to their appropriate uses—are not included in the before-mentioned powers. If they are not, the powers themselves are a nullity, because they cannot be executed. Custom-house bonds are by law lodged in the banks for collection.

It is admitted that these powers included a choice of means, and a discretion in the application of them, as they did in the various objects of taxation. Congress might have instituted numerous offices of deposit, and paid high salaries, and required sureties equivalent to the risk; and they might have employed public officers sufficiently protected to transmit the money to the various places where it was required, and to pay it to the appropriate uses. To this method no doubt nations had resorted before banks were introduced; but surely this method would be more unsafe, more uncertain, much more expensive, and at

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and proper for collecting, transmitting, and safe-keeping of the revenue, but alleges that the State banks are sufficient for that purpose. This, Mr. F. said, as he understood it, was giving up, in a great measure, the point. If the use of banks is necessary to carry the revenue powers into effect when this charter was given, and when there were no banks south of Philadelphia, and it is believed but two east of it—there not being State banks sufficient at the period when the charter in question was granted, in any degree adequate to the purpose—the Bank of the United States was a necessary means or instrument for executing the revenue powers vested in Congress, and therefore not contrary to the Constitution. If at that time it was not, then it may be asked when it became so?

The State banks are not by their charters in any degree responsible to Congress; they are not obliged to inform it of the amount of their capital, or their debt, or paper issued, or of their deposits. Surely no member would agree to deposit the revenues of the United States with, or transmit them through, institutions of the solidity of whose credit they were not well informed. He did not mean, however, to say that it was not possible to select such a number of State banks as would be sufficiently safe for deposits, or that such a connexion of these banks might not be formed as would make them responsible for the safe and speedy transmission of the revenue, and give the necessary information to Congress of the state of their affairs. Yet, supposing this was all completed, this union of banks would be in so far a National Bank, subject to the same objections, and to the following defects: The notes of all these banks would not pass through the whole United States, and the continuance of the charter would be at their discretion, and on the terms prescribed by the respective States. Indeed, it would occasion such a competition between the different States and the United States, in conducting their respective revenues, as might be inconvenient.

He did not mean to depreciate the State banks; many of them are worthy of the highest confidence, as far as their power and operations extend; but surely it will not be said that all of them are so. The paper of some of them is well known to have depreciated; the paper of many others is current, but to a small distance; they will not carry many of the members of this House from their homes to this place; the paper of none of them will pass throughout the United States.

Mr. F. said, there had been an unusual liberty taken on this question of introducing party epithets. He did not really know what that had to

wages the more promptly. You may call these parties Federalists, Republicans, Aristocrats, or what you please, but those who have the most money and are the greatest stockholders will eventually have the direction of the banks, and those who have the greatest credit will obtain the largest accommodations. We know of some banks instituted by one political party, which has come under the direction of another; they purchase the stock in market. We find indeed great opposition to the renewal of the charter of this bank, but not a single charge of misconduct, except the alleged appointment of two improper directors in a distant branch. Surely the bill might be so amended as to give reasonable security against such appointments. He was but little acquainted with the branches, but he had heard no complaint against the direction of the mother bank, and was well assured that the Republicans of Philadelphia had as liberal accommodations, and that as much of much of their paper was discounted there as in any other bank, which, if the charter is not renewed, they must then redeem.

Congress is vested with the power of receiving money on loans, and consequently of providing the best method of procuring loans; and it is universally admitted that banks are the best sources from which to receive loans, without delay, without difficulty, and at moderate interest, and for no longer time than the loan is necessary. In the early stages of our Government our revenue was small, and our debts and expenses great. In addition to these we soon became involved in a tedious, very expensive Indian war. It continued five years. During this period numerous loans were made from the bank, till more than three-fifths of the whole capital was loaned to the Government at common interest, payable at discretion. Another crisis of difficulty and expense arrived, viz: hostilities with France. Money was wanted; the bank could advance no more, it had already loaned too much. The Government was obliged to open books for a loan at eight per cent. interest, irredeemable for ten years; but few years had passed before money could have been borrowed at a reduced interest for its discharge; nay, but a few years had passed till it could have been discharged at the Treasury, if it had been redeemable; much of it, as well as bank and other stock, was sold to purchasers in Britain and Holland.

It is believed by many, that a loan might be made to a large amount now on better terms; but when he considered the great drain of specie from the country during the last year, the losses in Europe and the unusually small amount of specie imported, or that was in the vaults of the different banks, he thought there was little en-

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avoided mentioning the public and private distress that must result from the immediate dissolution of this bank. Even admitting that the specie stock purchased by foreigners, believed to amount to \$7,000,000, should not be immediately removed from the country, yet it would be diverted from its accustomed uses; and, instead of giving relief as at present, might speculate upon our distresses. He believed, that suddenly calling \$15,000,000 of current medium out of the usual circulation could not avoid in any country being the cause of at least a great proportion of both public and private distress. Therefore, he could not by his vote support the measure. It will have other inconveniences, which have not been mentioned. When the bank winds up its business and makes a transfer to trustees, it is not by charter obliged to call in its notes from a circulation that is widely extended throughout the United States. The holders indeed will have their remedy at law against the trust, but this may be a tedious and inconvenient remedy for many note holders.

It has been asserted by more than one member, that the institution of the bank was the foundation or source of the party spirit that has unhappily prevailed in this country. He wished, before he sat down, to correct this mistake, passing what prevailed before the Government took place. It was the funding system, in the manner it was conducted and the extent to which it was carried, and the consequent speculations, that was the source of that unhappy party spirit; but especially the assumptions of the State debts before they were liquidated or the amount known, and which, after having been once rejected, was carried by a very small majority; as a fund for this debt, the excise and other unpopular internal taxes became necessary. It is well known that about \$3,500,000 of this assumption is yet due to the United States from the States that were paid that much more than enough, and which no method has been, nor probably can be found, to recover. Unfortunately, almost every session some measures are so conducted as to keep alive, if not promote, that ruinous party spirit by which our national character is degraded, and our measures embarrassed. He questioned much, if rejecting the bill without attempting to amend it, is calculated to allay that unhappy party spirit.

When Mr. F. had concluded, a motion was made to adjourn, and carried, 54 to 51.

TUESDAY, January 22.

A message from the Senate informed the House that the Senate have passed two bills, entitled as follows: "An act concerning the communication

States, "to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State;" which was read, and ordered to lie on the table.

The resolution is as follows:

In the General Assembly of the Commonwealth of Pennsylvania.

The people of the United States, by the adoption of the Federal Constitution, established a General Government for special purposes, reserving to themselves; respectively, the rights and authorities not delegated in that instrument. To the compact thereby created, each State acceded, in its character as a State, and is a party; the United States forming, as to it, the other party. The act of union, thus entered into, being, to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise; for if it were so to judge, then its judgment, and not the Constitution, would be the measure of its authority.

Should the General Government, in any of its departments, violate the provisions of the Constitution, it rests with the States and with the people, to apply suitable remedies.

With these impressions, the Legislature of Pennsylvania, ever solicitous to secure an administration of the Federal and State Governments, conformably to the true spirit of their respective constitutions, feel it their duty to express their sentiments upon an important subject now before Congress, viz: the continuance or establishment of a bank. From a careful review of the powers vested in the General Government, they have the most positive conviction, that the authority to grant charters of incorporation, within the jurisdiction of any State, without the consent thereof, is not recognised in that instrument, either expressly, or by any warrantable implication: Therefore,

Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, That the Senators of this State, in the Senate of the United States, be, and they are hereby, instructed, and the Representatives of this State, in the House of Representatives of the United States, be, and they hereby are, requested to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State.

Resolved, That the Governor be, and he hereby is, requested to forward a copy of the above preamble and resolution to each of the Senators and Representatives of this State in the Congress of the United States.

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tional principle, which presents to my mind an insuperable objection to the passage of the bill. It is not, however, my intention to enter on a discussion of the Constitutional principle which has a bearing on the bill. That part of the subject has been ably and critically discussed by my honorable friend from New York, (Mr. PORTER,) and by other gentlemen, who have spoken on the same side of the question. On this part of the subject, sir, I will only observe, that a former Congress having decided the Constitutional question for themselves, by passing the law to incorporate the bank; the tribunals of the nation having sanctioned it, as it respected themselves; or the several States having, without rebellion, but not without murmuring and complaint, acquiesced in such decision, cannot quiet my conscience, nor satisfy my mind on the subject. The question now recurs; I have to act on it, and I must decide it for myself.

I will now endeavor, sir, to submit to the House a few desultory observations, which have for their object to explain some of the practical operations of the banking business; to show the probable effect of the dissolution of the bank charter, and to answer some objections which have been raised against its being suffered to expire.

It has been urged, as a motive for the renewal of the charter, that the concerns of the bank have been conducted with impartiality to persons of different political opinions. In answer to this, I beg leave to read part of a speech, said to be delivered on the floor of this House, and reported in one of our public papers; and also a letter from a gentleman in Baltimore, to whom the speech alluded: "It had been asserted, (says his speech,) during the last winter, that the branch bank in Baltimore had accommodated only one particular class of political gentlemen. He (Mr. STANLEY) had it from good authority, that a distinguished Republican house in Baltimore, of which a member of the Senate was partner, had obtained a greater portion of discounts than any other merchants in that place."

The letter to which I alluded, is in the following words:

"DEAR SIR: Will you have the justice to state to the House of Representatives, as early as you have an opportunity, and in direct contradiction of the unfounded assertion contained in the enclosed, that the Republican house in Baltimore, of which a member of the Senate is a partner, has received but two discounts from the branch Bank of Baltimore, to wit: one of nineteen hundred and sixteen dollars and fifty-five cents, and one of eighteen hundred dollars; the first on the 14th of April, and the second on the 14th of May, 1798; although the transactions of the house with that bank

formed from good authority, that of its discounts, more than one-half had been obtained by gentlemen of politics opposite to those of the bank; and that, in the purchase of bills of exchange, this bank had purchased a larger amount from the house alluded to, (Smith and Buchanan,) than from any other house in Baltimore.]

I am satisfied, said Mr. M., with the explanation. I have not introduced the speech and letter, so much to support my argument as to do justice to my friend; nor can I vouch for the correctness of the report.

It has been stated that nineteen or twenty millions of dollars are due to this bank, whose charter is now about to expire; that, if the charter is not renewed, it will produce great distress, and general bankruptcy will ensue; that the bank, in winding up its concerns, can receive nothing but specie, which will exhaust the resources of the other banks and individuals, and thereby produce a result the most disastrous to the mercantile interests of the nation. This statement is incorrect. By the returns from the Treasury, it appears that no more than \$1,318,024 was due to the bank; and that the bank is indebted to the public and to individuals, in the sum of \$11,542,320; and all the offsets it had against the heavy debt, are the above sum, due from different State banks, of \$1,318,024.

Mr. M. illustrated this position by the following detailed statement of the account, which he read in his place:

The bank owes to Government for deposits	\$2,493,362
It owes to individuals for deposits	3,891,680
It owes for its notes in circulation	5,157,378
Total amount of its debts	\$11,542,320
Deduct from the amount of debts due by the bank, its only offset	1,318,024
Leaving a net balance of debts due from the bank, of	\$10,140,296

This, sir, is the present situation of the expiring bank, by its own showing.

Gentlemen have involved this subject in obscurity, by supposing the fifteen millions of dollars, held by the bank in discounted notes, as a debt due to the bank. Sir, there is not one cent of these notes due, except a small sum that is in suit. If these notes were really due, it would materially change the state of the account. It would then possess the means of spreading terror, if it was disposed unnecessarily so to do; but we must take the account as it is; and if we would know how it stands at any particular time,

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prived of the public and private deposits, of which it will be deprived, when it is known that the charter will not be renewed? It is true, that, while these funds—the debt it owes—and a continuance of the public deposits, are suffered to remain in its possession, it may do much to create distress; while these funds are in its hands, it can employ the whole pecuniary resources of the nation to coerce other banks and individuals into its measures, if it were so disposed.

I wish it to be clearly understood, that I do not mean to say, or to insinuate, that this bank had unnecessarily used coercion, to create distress, or to obtain the object of its wish—a renewal of its charter. But while these funds remain in its hands, they produce this effect. They render it a measure of prudence and necessary precaution in other banks not to issue their paper, to aid the customers of this bank, or others indebted to it, to retire their notes; and this operates powerfully on my mind as a reason for urging a speedy decision of the question. I am of opinion, if this question is settled, let it be determined as it may, that all the difficulty and distress resulting from the probable dissolution of the charter will soon be dissipated, and things then resume their usual course. If the charter is not renewed, the expiring bank will lose its power of holding other banks in check, by the withdrawing of public and private deposits; which, being placed in other banks, will increase their means of giving aid to those who have paper to retire from the expiring bank. This bank having now no other than its own natural means, will no longer be an object of dread to other similar institutions; they may now freely lend their aid to relieve the distressed, and their increased means will be adequate to the object.

It has been suggested that the capital of this bank, owned in Europe, will be remitted in specie, if the charter is suffered to expire; and that such a drain of specie would be severely felt by the banks, at this distressing time in our commercial concerns. There is no necessity for remitting this capital in specie; and I do not believe one dollar would be so remitted, because it will not be the interest of the proprietors that it should. Exchange is low; I believe bills might be purchased at $7\frac{1}{2}$ a 10 per cent. below par; and if remitted in specie, the freight and insurance could not be less than five per cent. A remittance in specie would then be $12\frac{1}{2}$ a 15 per cent. less favorable than to remit in bills. Men are usually governed by their interest in transactions of this kind; and I do believe that the managers of this stock, if it is to be remitted to Europe,

will not add much to our distress, to let the bank capital go with it; but I am of opinion that one dollar will not be shipped to pay this stock.

It has been stated by my honorable colleague, whom I do not now see in his place, (and I regret that I do not, that I might be corrected, if I misstated what he said,) that fourteen millions of dollars would be thrown out of circulation if the charter of this bank was suffered to expire; that the bank discounted fourteen millions of dollars; and, therefore, must have issued its notes to that amount in payment for the discounted paper. This is incorrect; one-half of the discounted paper, it might be fairly estimated, was of what is denominated accommodation notes; and for this portion of the discounted paper no money goes out of the bank after the first renewal; but, on the contrary, money is brought into bank in this part of the business to pay the interest, or discount, on these notes. I beg leave to explain to the House the nature of what is termed accommodation notes. They are notes for which no value has passed; they are given by the maker of the note to accommodate the receiver of it, on an understanding between them, that, when due, it will be taken up by the person who received it; and discounts on this kind of paper are in the nature of a permanent loan, so long as the person accommodated requires, or as it may be convenient for the bank to continue it, the note being renewed every sixty days, and the interest paid thereon. But the proposition is equally incorrect as it relates to the notes discounted; which were given on some actual transaction in business; notes are not issued by the bank to the amount of the real paper it discounts; money is constantly coming in for notes that fall due; and, in the course of trade, it frequently happens that the money paid in one week, on discounted notes, is the next week, by various windings and changes, again in bank, to discount nearly a like amount.

The real diminution of the circulating medium that will result from the dissolution of the charter will be five millions of dollars. The report from the Treasury, laid on our tables, states that the bank has five millions of dollars of its notes in circulation, and these, of course, will be paid off and destroyed when the bank ceases to act; and as it will then receive no more deposits, the means of other banks will be enlarged; whereby they may issue an increased amount of notes, perhaps nearly equal to the extent of the diminution that will result from the decease of the charter.

I will repeat, sir, what I before said. When the charter is settled, the difficul-

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on specie? Because it will be urged to do so from interest and necessity. It has a large debt that will be shortly falling due from its customers, and how will they be able to pay if the bank shall draw all the specie into its vaults, and keep other banks in check, so that they can afford no aid to its customers to retire their notes when they fall due. The specie cannot be wanted by the expiring bank. Every object of winding up, remitting, and paying its capital, can be managed to equal advantage without it; and will this bank, without a motive, and in opposition to its own interest, endeavor to produce distress by thus unnecessarily drawing the specie into its vaults? Certainly it will not. But if it should act so unadvisedly, who is to be the greatest sufferer? Who has a greater interest than itself in facilitating the payment of debts? None have a greater stake at hazard than this bank, and I venture to say, that none will be more disposed to promote the general convenience and prosperity than it will be. I have no fears of this spectre of misery and distress that has been artfully conjured up to alarm us into a renewal of the charter.

My honorable colleague (Mr. KEY) has made an eloquent display of the benefits of banking establishments in our agricultural improvements, our manufactures and ship building; and that, if this bank was put down, the effects would be severely felt in the reduced price of produce, and in our improvements generally.

I accord most heartily with the honorable gentleman as to the benefit of banks to a reasonable extent. No one is more perfectly convinced of the benefits resulting from them than myself; but I deny that such injurious effects would be produced by suffering this charter to expire. Is there no other bank but this one, founded on foreign capital, and administered more or less under foreign influence, that can produce and perpetuate these benefits? Surely there are others as capable, and as much to be relied on as this. The capital of this bank forms but a small portion of the aggregate bank capital of the nation, and if its charter should expire, the benefits mentioned will not be lost. No specie will be destroyed, or sent out of the country by its dissolution. Specie is the basis of bank capital, and if we have specie to meet them, we can easily make bank notes enough without the aid of this bank. The bank notes that will be thrown out of circulation are all that will be lost by the dissolution of the charter; and if we have specie, we can soon supply their place. There is no scarcity of paper among us.

violated; and the charter is now about to expire by its own limitation. And this valuable inheritance of benefits about to descend, with the death of the charter, to the people of the United States, it will become their joint property. About seventenths of the present stockholders are foreigners; and, shall we, the guardians of the rights and interests of the American people, perpetuate these benefits to foreigners, by a renewal of the charter to them, in preference to those whose interests we have been chosen to protect? Persons unconnected with the public business might, perhaps, wink at such an act; but if we, in our representative capacity, should do it, will it not be to record our infamy?

Under these impressions, Mr. Speaker, I am prepared to give my vote for an indefinite postponement of the bill. But, if the section stricken out in Committee of the Whole shall be reinstated, and the bill shall come to a final vote, I must record my name against its passage.

MR. GOLD.—Mr. Speaker, although this question has long engrossed the consideration of the House, I must ask the indulgence of the House to the observations I may offer. I will not trespass on your patience.

The question of expediency, together with various extrinsic topics, I pass by unnoticed; on these let the judgment and not the feelings of the House, which have been so much addressed through *ex parte* statements and suggestions, determine.

On the great Constitutional question, involved by the bill on your table, it is the fruit of my best reflections—it is my deep conviction, that the agency of a bank is necessary to the administration of the finances of this country; that it is eminently necessary to the great exigencies of war. This is the test; on this pivot rests the question. In coming to the conclusion I have, sir, I disclaim the doctrine of implication of powers—of constructive powers—now rendered so odious and so unjustly imputed to those who maintain the constitutionality of this bank; I ask only the application of a plain simple rule, which is as old as first principles; as extended in its operation as the empire of law; to be found in all codes, applicable to all instruments, as well to conventions between States as to the contracts of individuals.

It is, that with the end is given, inseparably given, the means; that, with the express powers given to this Government, is also given the means necessary to carry the Government into successful operation—not merely to move the wheels, but to give an effectual impulse, necessary to the ex-

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utmost embarrassment by withdrawing the aid of a banking institution? Such embarrassment, to my mind, is inevitable.

But, sir, if doubts could exist as applicable to a state of peace in the great and trying emergencies of war, there is not, I did hope, room for diversity of opinion; the necessity of the institution, in my conception, is eminent, is indispensable. Money is the sinew of war; for want of it, to satisfy a needy, discontented army, the most important operations of a campaign have been arrested, and the most disastrous results produced. Our own country, sir, the patriotic army of the Revolution, and one more patriotic, I fear, we shall never see, furnished one if not more instances of discontent and actual mutiny, for want of pay, (for want of that which this institution could so promptly furnish,) which was not appeased without resort to military execution.

However pacific in its policy, let no nation promise itself continued exemption from war; history gives no assurances of this kind; no wise Government, in its policy and institutions, ever lost sight of a state of war. In case of internal dissensions, in public convulsions, the prompt aid of a bank may be equally necessary. It is the observation of a distinguished writer, who had well considered the events of the Revolution, that the independence of this country was, in no small degree, indebted to the Bank of North America.

But, it is said, that the best resort of Government is to the purse of individuals, that this source will be found abundant. It is, Mr. Speaker, on public emergencies, in times of public convulsion, under the severe pressure of war, when ready supplies of money become indispensable to Government, and it is at such a period that alarms spread, and distrust seizes on the community; it is then that the moneyed man withdraws himself, places his cash in a strong box, and, not unfrequently commits it to the earth, beyond the reach of Government. We have no power of drawing the Jew's teeth; no resource in a forced loan.

In the course of debate, on this bill, it is not a little amusing to observe the desperate efforts, the contradictions, and inconsistencies, which gentlemen, in their zeal, fall into. At one moment it is most strenuously insisted, that nothing short of an express provision, in the Constitution, to create corporations, can warrant the establishment of a bank; the next moment it is admitted, and strange, indeed, had it been denied, that, if a bank be a necessary mean for the execution of the delegated powers of the Government, then must it be Con-

ters, and in direct violation of the elementary principles of our language. If gentlemen will take the trouble, and I invite them to do it, to recur to the best writers and philologists, they will find the term used in a sense implying only what is needful, or requisite, and not what is extremely so, or indispensable; and why, sir, should it be extended beyond the above limits? Is it not an adjective of comparison—for the argument has carried us back to the schools? Is it not in every day's use, and correctly so, that one thing is "necessary," another more so, and a third indispensably so? Have we not seen here, upon this floor, a member rise, and call for the order of the day on a bill "necessary" to be acted on; another member call for one more necessary, and a third for one absolutely and indispensably necessary? And yet, sir, gentlemen continue to urge upon us, that "necessary," in its positive, uncomparative state, imports the superlative—means indispensable. Such arguments, sir, not only prostrate the bank, but subvert the very foundation of language. Again, sir, it is said that no mean is given by the Constitution, if the operations of Government can possibly be carried on without it. Is this dishonor to be done sir, to the memories of those wise men who framed our excellent Constitution? Was it the height of their high ambition, the fruit of all their labors, to give the country a limping, halting Government, to move with a snail's pace, to give to the wheels an impulse, the least possible, competent to move them? Upon this argument, sir, the Government itself ought not to have been established at all, as without it the country might have subsisted; we might, probably, have defended our territory and retained our liberties, at least for a considerable period; we might have moved up and down, and consumed the acorns of our forests. A higher ambition moved the worthies who laid the foundations of this goodly fabric of Government; and I will not hesitate to honor them so much as to say that they intended to give to the Union a Government for attaining the highest degree of political prosperity of which the condition of the States and the nature of a Federative compact is susceptible. Such, sir, in my apprehension, was the object of the Constitution, and, I beg leave to add, that this object may be carried into effect without touching the rights, the interests, or happiness, of those States. Nay, sir, the best interests of each and every State in the Union imperiously demands of Congress, in despite of all the covert movements of State banks and State politicians, independently to carry into effect the bill on your table. Let us not, sir, shut our eyes to the quarter from whence danger threatens, to the

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Legislature. If this influence, sir, is to prevail over the Councils of the Union, then, indeed, are we degraded, our sovereignty lost, and all the weaknesses and maladies of the old Confederation returned again upon this body politic. I repeat, sir, if this bank shall fall, it will owe its fate to the baneful influence of individual States, governed by their own banking interests, over the Councils of the Union.

The argument, sir, in support of the constitutionality of a banking institution, as a mean necessary to execute the Government, is greatly strengthened by the consideration that the jurisdiction of the Government over the specified subjects of its cognizance is sovereign.

In the division of power, certain subjects of legislation remain with the individual States for their sole and sovereign jurisdiction; other specific subjects are, by the Constitution, committed to the exclusive cognizance of the Government of the Union; all legislative power over those subjects is not only given to Congress, but expressly denied to the States. With these plain landmarks before him, I was not a little surprised to hear my honorable colleague, (Mr. PORTER,) in a speech of so much method and ingenuity, contend that the Government of the Union was not sovereign in anything; that sovereignty was to be found alone with the people. To the people, sir, we always bow with respect; it is among first principles that all power flows from the people, and is to be exercised for their benefit and welfare; the people are the legitimate source of all power, and it is from them the Constitution is derived: but, sir, the moment the Constitution is formed, and the Government established, the original sovereign power of the people is parted with; it is transferred to the Government, and all interference with its exercise is lost, except through the medium of elections. Need I refer to a host of writers on civil society and Government for all this? The result is inevitable, that the power of this Government over the objects specifically and exclusively committed to its jurisdiction, is full, entire, and sovereign. The principle of my colleague would give us a Government of men, not of laws, the very definition of despotism. This view, sir, repels the strict, the narrow, meagre rules of interpretation which have been applied on this occasion. Another position of my colleague is equally unfounded. He insists that the Government of the Union and the respective States have a mixed or combined jurisdiction over the same subject-matter; and hence a new restriction is created on the power of Congress. What, sir! is the power given to Congress, and the means to execute it

of argument to cut down the powers of this Government and prostrate this institution.

I cannot, sir, pass over another argument against the bill without notice. It is said that the banks of the States may be resorted to in the administration of the finances. Here, sir, by this argument, the whole question of constitutionality is given up, for the very necessity of the resort to State banks maintains the agency of a bank as necessary in administering the Government; it is on this pivot, necessity, that the whole question turns. In steering clear of Scylla the argument is lost in Charybdis. This necessity of bank agency is so indispensable to the Government, that gentlemen look with fear and trembling upon the intermission of a day between the expiration of the charter of the present bank and the new and gladdening reign of State banks. It has been stated on the floor of the House, that arrangements are already making with State banks for the accommodation of the Government. Preparations are in forwardness for celebrating the nuptials of these State damsels, who, with little modesty, attend in the ante-chamber eager to rush into the arms of Patronage in the Treasury. Do ye not discern the signs of the times? Are the policy, the co-operation, and active movements of the State banks not seen? While the United States' Bank is going down, do you not observe the wreckers hovering on the coast?

But, sir, this great question of constitutionality does not depend on the occasional existence or non-existence of banks in the States, but on the intrinsic power, given by the Constitution, without regard to the extrinsic, contingent, and uncertain co-operation of State Legislatures.

What the future policy of the respective States would be; whether State banks would be established, able and willing to aid this Government, and safe depositaries for the revenue, could not be foreseen by the framers of the Constitution. Such an argument, resting on such contingencies, would at one period make a thing Constitutional, which at another would be unconstitutional.

To all those who are averse to a multiplication of banks and bank stock, permit me to observe that the States stand ready to fill up, by new banks, the vacuum or space left on the expiration of the United States' Bank, as rapidly as the motion of fluids under the principles of hydraulics; nay, sir, some have already anticipated the event by a litter of banks, and hence, sir, we have witnessed the struggle of a parent's affection to protect the offspring.

It only remains, sir, for me to call the attention of the House to the past.

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the projects for amending the Constitution, that a single State has touched the power that created this bank. No, sir, this viper in our bosom (to use the impassioned language of gentlemen in opposition to the bill) has lain harmless; harmless, did I say? like a good genius it has administered to our wants and promoted our welfare.

Can the candid mind resist the conclusion, that the people are with the bank? Shall I remind you, sir, that this institution received its existence from the hands of the greatest and best of men; and under the Presidency and with the entire approbation of Washington; that the Constitutional question was decided at a period auspicious to fair inquiry; at a period when party spirit was much less virulent and destructive; that some of the most distinguished supporters of the present Administration concurred in its establishment? Shall this question of constitutionality never be at rest?

Mr. JOHNSON.—Mr. Speaker: I had determined until yesterday to be silent on this occasion, and I extremely regret the necessity which has compelled me trespass upon the exhausted patience of the House upon an almost exhausted subject. I am opposed to the renewal of the bank charter of the Bank of the United States, from the strongest sense of duty which can be felt by the Representative of a free people—I believe it palpably unconstitutional to renew the charter, and, if it were Constitutional, it is inexpedient, and improper.

It is absolutely necessary that the House and this nation should understand the real question before us—for arguments have been advanced upon premises which do not exist, and remarks predicated upon a case which is not embraced by the bill. This makes it my duty to call the attention to the real question, that we may not dwell longer upon supposed cases. This is not a struggle on our part to repeal any act of corporation, or to deprive any citizen of any vested rights claimed either by nature or by any political act; but an exertion in favor of equal laws and equal justice to all the people of the United States, to prevent monopolies from being given to a moneyed aristocracy, unknown to the Constitution and dangerous to the liberties of the people, and subversive of the State sovereignties. Twenty years ago, Congress in express violation of the Constitution incorporated a bank, called the Bank of the United States—to continue twenty years, which will expire the third of March. It was granted by those principally who have assumed the name of Federalists and who advocated the incorporation of the bank as Constitutional, upon the edifying doctrine of implied powers: and which

we encourage this moneyed aristocracy and continue this privileged order in the bosom of our country twenty years longer? They have had the exclusive advantage of accumulating wealth and money for twenty years, and they are not satisfied. They wish a renewal of the charter for twenty years to come. Thus, sir, the present Congress have before them the same question which was determined in 1791, viz: to incorporate the stockholders of the United States' Bank twenty years from the third of next March. We are absolved from all obligations on this subject but those of duty to the people; the question stands on its original merits and demerits; for the lapse of twenty years cannot sanctify a breach in the Constitution, nor the acquiescence of the people make that expedient and proper, which is hostile to liberty, equality and justice. Thus absolved from all obligations to promote this institution, from such considerations as have been urged, I am to consult the good of the people.

First, to incorporate the stockholders of this bank, and, thereby continue in existence a moneyed aristocracy and a privileged order of men, is a violation of the Constitution of the United States; that Constitution of union which binds the States together, and which we are individually bound to support by a solemn appeal to heaven.

It cannot be unpleasant to trace back to its source the union of the States. It brings to the patriot's mind the events of the American Revolution. It was in this glorious Revolution that the union of the States had its origin—at a time when we were distracted by domestic faction and threatened with a foreign Power, when in fact we were invaded by a British army, and our political existence was threatened. Thus, while General Washington was at the head of our forces in the North, the sages in Congress were planning articles of confederation as early as June, 1776. Before the Declaration of Independence a committee composed of a member from each State was appointed to draw up articles of confederation by which the States should be bound to each other.

These Articles of Confederation were finally adopted by all the States in 1781. Until which time Congress was the Type of Union, and the rallying point for the States. So great was the influence of these men who conducted us safe through the Revolution. This summary will give us the objects of the union of the States. It was not for the purpose of interfering with State rights—for the purpose of regulating the laws of credence, and the laws of descents, of creating county court-houses and jails, opening State and county roads: this would have been impossible:

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jects of the Confederacy, that we may not weaken the bonds of the Union by a usurpation of power not given to us by the Confederation—a union sacred in its origin, cemented by the sufferings of the States, strengthened by habit and affection, and sacred in its objects of common security against external danger and internal commotion. The Articles of Confederation being the first written bond of union, let us examine the system and point out its defects, that we may more easily see why the Articles of Confederation were abandoned for the present Federal Constitution. The Articles of Confederation gave to the old Congress the powers enumerated in the present Constitution. The objects of both instruments were the same. the powers principally the same, but different in the execution of those powers. The powers of confederation were Federal in extent, and Federal in their operation. The resolves of Congress therefore, under the Articles of Confederation, had no other force than recommendations to the different States. If men were wanting, the States were required to furnish their quotas. If Congress wanted money for the great objects of union they could lay and collect no tax; they could only recommend the States severally to furnish the requisition. But Congress had no power to force the States to a compliance. And the States could, as many of them did, refuse to furnish the requisition of men and money demanded by Congress. Thus the powers of the United States were Federal in extent and Federal in their operation. The old Congress had no Judiciary—because that would have been unnecessary, as their resolves could not be enforced upon the States in their sovereign capacity, or upon the property or persons of individuals. In this state of things, when commerce languished, when under British influence we were engaged in a bloody Indian war; and our ports and frontiers in British possession, and the States refusing to furnish men and money and comply in all things with the resolves of Congress, although under Constitutional obligation to do so; it was agreed by all that the Articles of Confederation wanted revision and amendment; the States sent their deputies for the purpose of forming a more perfect instrument of union between the States. This was a great and a delicate trust.

Thus the present Constitution originated from the defects of the Confederation—embracing the same great objects of common security; and the powers of both instruments are limited and Federal. In fact they are both a grant of specified powers, and powers not granted to Congress are reserved to the States or to the people. We dis-

raise an army from the body of the people, and to force a draught if necessary. Whereas the old Congress, under the Confederation, had the same right to require men and money for the objects of the confederacy; but these requisitions operated only as recommendations to the States. From this statement we plainly discover the great and only radical difference between the Confederation and the present Constitution. The powers now exercised by Congress can be enforced upon the persons and property of the people. This operation, and carrying into effect the powers of Congress, is the national and consolidating principle of the Constitution.

Although experience had proven the want of power in Congress to carry into effect the legitimate objects of the Confederation, this national or consolidating principle in the Federal Constitution was a subject of alarm and solicitude to the friends of liberty. This principle was the fruitful source of the most obstinate and rational objections to the adoption of the Federal Constitution; and it was with vast difficulty that the States adopted it. In fact it was adopted under a conviction and promise that amendments would be made, which would leave nothing to doubt or implication—and important amendments were ingrafted accordingly into the Constitution, all tending to demonstrate that we were to assume no power by implication, but confine ourselves to the letter of the Constitution.

To prove that the Constitution should be thus construed, I need only advert to the eighth section of the first article, in which the powers granted to Congress are specifically enumerated, to lay and collect taxes, to borrow money, to regulate commerce, to establish a uniform rule of naturalization, to coin money, to constitute courts of justice; declare war, raise armies, to call forth the militia, &c. And to the tenth section of the same article, where certain powers are prohibited to the States, which had been previously vested in the Congress of the United States, viz: no State shall enter into any treaty, alliance or confederation, nor grant letters of marque and reprisal, coin money, emit bills of credit, or grant any title of nobility, nor lay imposts or duties on imports or exports, or lay duties on tonnage, keep troops or ships of war in time of peace, or engage in war unless actually invaded, or in such danger as will not admit of delay, &c.—and the ninth amendment in these words: "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people;" which amendment referred to the prohibitions to be found in the ninth section of

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amendment, viz: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

The parts of the Constitution recited prove the position taken, that the Constitution is a grant of specified powers; that we can exercise no power not expressly delegated to us by this instrument; that our orbit is circumscribed by the grants of the Constitution, and we should be careful not to usurp authority not given to us. The exercise of authority not delegated, but reserved to the States or to the people, is the very essence of consolidation, which, if enforced by the United States, would lead to monarchy or a despotism. If not enforced, it would convulse the whole nation, and we should see the people quitting their daily avocations; the farmer his plough; the mechanic his shop, to remonstrate against a tyrannical exercise of power. This we have seen on former occasions, not less memorable than this, arising from the same doctrine of implication, and arising from the acts of the very same set of men.

The harmony of the States should not be disturbed. It should not be agitated by the breath of discontent. Its value is more precious than gold or silver. The spirit of union should be cherished by us all in words and in actions. Nothing will produce more happy effects than keeping in the path of our rightful powers; otherwise you generate the most angry passions of the people; you start up the most malignant invectives—order will be disturbed and tranquillity will be interrupted. To produce these unfortunate effects, nothing can contribute more than to disregard the enumerated powers in the Constitution, and exercise tyrannical powers by implication or under some general phrases, such as the "general welfare;" expressions which contain no grant of power, but limited and explained by enumerated authorities; by which construction the power of Congress would be arbitrary and unlimited, as Congress would take upon themselves to judge what measures would promote this general welfare. I wish on this occasion to do justice to the people of Kentucky, by asserting their inviolable attachment to the Union, more especially since in this House its sacredness has been profaned in a manner not to be forgotten. If the people of the West and beyond the mountains have any political idol, it is the union of the States. As the Bible and New Testament are dear to every Christian and true believer, as the basis of his happiness here and the foundation of his future hopes, so the Union of the States in a political point of view is considered by the people as the surest pledge for the blessing of liberty and

the advantages of the union of the States. The word disunion, as applied to the States, would produce a heart-rending pang in the bosom of a Western patriot, and I hope it would throughout the seventeen United States and their territories. The people are Republican, and they abhor all measures of a monarchical tendency. They know the United States have been governed alternately by the two great political parties in this country. They have a regard for and a confidence in the Republican party—this regard is not confined to the Western States, but extended to every part of the United States. They believe that truth and equal justice will prevail, where the opportunity is equal, and where the people do exercise the power of sovereignty. The people represent, and in fact, the whole of the States have confidence in every part of the United States. As a people they cherish and harbor no jealousy about large and small States, of commercial monopolies, &c. Nor are they thus attached to the Union from selfish and interested motives—no, sir, their attachment to the Union arises from a noble and generous affection, a magnanimous and disinterested display of patriotism, and love of independence. We have given many proofs of this. At a time when this people were agitated and alarmed at the prospect of having some of their most essential rights interrupted, and when they declared their determination to support those rights, the gold and silver of Spain, in the hands of Spanish emissaries, could not alienate the affections of this people, with all the influence of arch intriguers; and the treason of Aaron Burr had as little effect upon the minds of this virtuous and happy people. Any other attempt would be as vain, however well matured. I feel the consolation which arises from a knowledge that I represent in part such a people, whose affections cannot be estranged from the great American family by promises of future greatness, the hopes of golden harvests, or the expectations of governing provinces with the silver mines of Mexico. With these sentiments, I am now to examine for the particular parts of the Constitution and the arguments which have been advanced to justify this measure. It is not contended by any that the power of incorporation is an express power given by the Constitution to the Congress of the United States beyond this ten miles, over which Congress has exclusive legislation. If then this power is not expressly given, I might here stop and deny the right to exercise it. So far from finding any express clause in the Constitution giving this power, the word corporation or bank cannot be found in any part of this instrument of our Union. We have seen the exercise of great abilities,

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tended that this power is given by implication; and a third contends, that it is an instrumental power given to carry some specified power into operation. This is not all; the advocates cannot agree upon the specified power in the Constitution out of which this power or means arises. One has contended that the power to lay and collect taxes gives this power as a means to execute the specified power, and to support this position it has been contended that this National Bank is necessary and proper as a means to lay and collect taxes, duties, &c. To strengthen this construction, that part of the 8th section of the first article, which says, that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c., has been resorted to; another has said that this instrumental power grows out of the express power to borrow money—and a third that this power was incident to the power to regulate commerce, and in fact these three great objects are embraced by the preamble of the bill which passed in 1791, which incorporated this moneyed aristocracy and erected this privileged order of men. With respect to the declaration in the Constitution, that Congress may make all laws necessary and proper to carry the express powers into effect, I should state that the framers of the Constitution intended by this declaration to prevent the doctrine of implication, and to leave nothing to doubt. It was introduced through abundant caution against the strides of usurpation, and it should be the last clause to which he should advert, upon which to build the doctrine of unlimited means to carry the express powers of the Constitution into effect. If our means are unlimited, our powers need not be defined, because one as much as the other is a destruction of our freedom and independence. I shall contend that the means by which we are to carry into effect any express authority should be adapted to the end in view; that it should not embrace other objects not contemplated by the Constitution, although it may be made instrumental in carrying into effect a specified authority. Under this cloak we might conceal our usurpation of power.

I will ask if this National Bank is necessary and proper as a means to carry into effect the power to lay and collect taxes, duties on imports, &c., to borrow money, or to regulate commerce? If necessary and proper, is this bank confined to any one of these objects exclusively, or to all collectively, or does it embrace a vast variety of other objects, which are the primary ones, in fact, of this institution, and only embracing these pow-

ous doctrine of implication, and to amass wealth from the labor of the people, and not for the exclusive object of carrying into effect any express authority in the Constitution. Thus, it is evident that this moneyed aristocracy, embracing such a vast variety of objects no ways connected with the execution of any specific grant of power, departs from the letter and meaning of that part of the Constitution which gives the power to carry into effect the specified powers of the Constitution. But now, let us inquire what is the necessary means to lay and collect taxes. If a bank was not intended, I will take duties upon imports, as in that way, we collect our revenue. First, a law must pass designating the articles upon which a duty shall be laid, the amount of that duty, and the manner in which it shall be paid, either upon the delivery of the goods, or upon a credit, by giving bond with security; and last, to appoint collectors of the revenue, and other officers, to collect and receive this revenue for the United States, with authority to bring suit upon failure of payment. This is a necessary exercise of the power to lay and collect taxes, &c. And where is the statesman who has denied the power as unconstitutional? Here these means are confined to the object in view, the collection of the revenue; and certainly, the United States have power sufficient for all the objects of the confederacy, as in the exercise of all the specific grants of authority, Congress may operate upon the persons and property of the individuals of the States to enforce that authority.

It is no argument with me that we are in prosperity and health, and such an institution will not be dangerous. No, sir, establish a precedent in the day of prosperity and it will come upon you in the hour of adversity. This same doctrine of our being unlimited in our means of carrying into effect the grant of powers in the Constitution, has already endangered the liberty of this nation: If the doctrine contended for on this occasion be correct, and carried into full force, Congress would be as omnipotent as the Parliament of Great Britain; the Constitution would no longer restrain us, and the independence of the nation would depend upon the caprice of Congress. Our Constitution would be like the boasted Constitution of Englishmen. And what is that Constitution? Sir, it is not lettered or defined like ours. It may be changed by Parliament as the Crown party or the people shall prevail. 1st. The great charter of liberty obtained from King John, violently, and in duress, declaring what should be considered the fundamental laws of England; 2d. A statute in confirmation of the great charter, making provisions to read the same

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the Lords and Commons of England in 1688; 7th. The Act of Settlement at the commencement of the eighteenth century, endeavoring to secure the English subject in his personal liberty, security, and prosperity. These, and the like Parliamentary declarations and statutory provisions, constitute the Constitution of England, which the same Parliament has a right to alter or abolish. I never wish to see Congress invested with a power to change the Constitution, sanctioned by the people in their highest sovereign capacity. The Constitution has vested us with power enough, and if we want more, amend the Constitution in a Constitutional way, and not tyrannically exercise power never delegated to this body. The ground on which we stand is delicate, and the duty we owe the people should teach us caution, more especially when we see men in power too apt to grasp at more, and exercise it oppressively. We should never forget that all power flows from the people; they are sovereign—I hope they will ever remain sovereign in this country. Our safety is with them. They are unambitious, they are virtuous, and have no temptation to overturn those liberties which they themselves enjoy. But this measure is a violation of the Constitution in another respect, by interfering with State rights. This corporation can send a branch bank to any part of the United States without consulting the States or the citizens of the States. Suppose, sir, they should send one of these branches to Frankfort, Kentucky, with a great capital, and under the sanction of the General Government, would it not lessen the profits arising to the State, and to the people of the State from the State bank of Kentucky, as established by the laws of that State? I presume it would. It would contract very much the circulation of the State bank notes, and would, in many other respects, come in collision with State rights. Every State has a right to regulate its own moneyed concerns, to incorporate banks, or not, as interest or inclination may dictate. But in the zeal of some gentlemen to continue this moneyed aristocracy in the United States for twenty years to come, they have denied the right of the States to incorporate banks, and that Congress alone has the power. This doctrine is new to me. When Mr. MADISON, and other patriotic statesmen, denounced this measure as unconstitutional, in 1791, it was not contended that the States had no right. It was admitted by the lovers of implication that there was a concurrent right. Thus we behold the progress of opinion to support a favorite measure.

the Revolution knew this. The great calamity which individuals suffered by the paper money demonstrated the necessity. But no man is obliged to take the bank notes of a State bank for the payment of a debt, or in common transactions. It is at his option, and the moment you get a bank note, you may present it to the bank and demand your money. Not so with bills of credit, or paper money, issued and made such by the State. It would be extremely difficult, I presume, for any gentleman to convince the States by argument that they had no right to incorporate banks, and it would be equally difficult to force the States to destroy their local banks for the United States' Bank, owned principally by foreigners. Not only the bank in its moneyed operations would interfere with State rights, but the rules and regulations of the bank, as heretofore established by Congress, have interfered with the laws of the several States in their municipal regulations, as to the tenure of property and the liability of the corporation to pay their debts.

Mr. Speaker, I have said as much as I conceive it my duty upon the unconstitutionality of the bank charter. I am to ask your indulgence while I endeavor to prove its inexpediency and its dangerous tendency to the freedom of this nation. In the hand of a private citizen wealth will at all times have its influence, and may attach to him an importance beyond his merits. But this influence is not so dangerous as to induce a government to interpose and limit the honest accumulation of property by any citizen. And though this wealth may have its influence, it is always limited. It may frequently be in the hands of a benevolent man, and if not of this character, this vast wealth seldom survives the death of the individual proprietor. It is either divided among numerous relations, or squandered by his heir. But not so with a body corporate, extended throughout this vast empire, possessed of a capital of ten millions of dollars, and extending their credit and accommodations to double that sum, notwithstanding their limit to ten millions. It is stated by an advocate for this bank that the stockholders commenced their discounts with about \$625,000, and that upon this sum they discounted to the amount of \$6,000,000 the first ten months after it went into operation. To divide this ten millions or twenty millions of capital in local or State banks, no serious danger could be apprehended, because the stockholders of one institution would be strangers to all the other stockholders; so of the directors of the different local institutions, and consequently there could be no combination between the different banks. But it

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money deposited in this bank to the amount of millions for safe-keeping. And their notes made payable to the United States the same as gold and silver. Sir, is there no danger in such a monster, fostered by the General Government, and possessing so many advantages by the laws of Congress? Such a bank in its beginning would confine its engagements to the means of payment, but as their credit increases, they engage beyond their means, their vaults are empty, and the institution relies upon its great credit and exclusive privileges. Thus the character of the bank is changed, and it becomes a system of speculation and a political engine to destroy virtuous individuals, or mould the Government to its notions.

I have no knowledge myself about the political workings of this United States' Bank. But if I were to believe the declarations of members on this floor, and complaints from every part of this continent, I must think that this institution has not been silent and indifferent spectators to the reform of the Administration to Republican principles—but they have endeavored to support that party who gave them a charter. I do not, however, introduce this as a conclusive argument against this bank. No, sir, I would equally object to it in the hands of Republicans. It would still be a moneyed aristocracy, too vast and too powerful not to be dangerous to the freedom of the United States. But, without these declarations of political influence exercised by the stockholders and directors of these banks, our own reason would teach us to believe all we have heard of the oppression and partiality of this bank. It is composed of individuals; these individuals have their passions, their feelings, their prejudices, their partialities and their politics, and they will act accordingly. Self-preservation will always induce them to support and keep in power the party who will be most friendly to moneyed aristocracies and their own institution. The influence of this bank is palpable and notorious. We have the evidence from the long roll of petitioners now imploring Congress to renew the charter. If in twenty years this bank is to be the idol of some and the alarm of others—if the solvency of so many individuals depend on it—if ruin and devastation will in the event of its dissolution spread wide in the country—then, sir, it will only require twenty years more to make it stronger than the Government. To induce us to vote for this institution, we have been persuaded, flattered, alarmed, petitioned, and threatened, and we have been amused with the rise and history of the banking system. It originated in Italy, it has travelled through

a moneyed aristocracy. We wish to rest upon the virtue and will of the people.

It has been stated that Georgia is Republican, notwithstanding this monstrous machine has extended a branch bank to this State—and it is stated that Connecticut is Federal, and has no branch bank of the United States. This does not prove that the bank is not a dangerous engine against the liberties of the people; but it proves that the people of Georgia withstood this dangerous influence and deserve more credit. It is a proof of the virtue of that people. If this institution is so necessary and beneficial, why do not the Representatives of Georgia, who have been blessed with this institution, come forward and advocate a renewal of the charter? But you find the respectable members of Georgia opposing a continuance of this evil in every form. In fact the State of Georgia taxed the paper of this bank, and the State was determined by taxation or legislative prohibition to drive this circulating medium from their territory. But considerations of wisdom induced a postponement of this determination until it should be seen whether the charter would again be renewed in violation of the Constitution, and in defiance of our liberties. My colleague (Mr. McKee,) whose opinions I had been in the habit of considering as my own until this unfortunate question which divides us, has stated that in his opinion the dissolution of this institution would be felt by the citizens of the Western country, and that our surplus hemp would not command as good a price. I differ in opinion from my colleague if he supposes the Western country will feel any great pressure from the dissolution of this bank. I grant the people of Kentucky may not be entirely exempt from some inconveniences common on such an event. But our produce will fall from other very different causes. Interruptions in commerce, stagnation in trade, bankruptcies throughout the commercial part of the United States, arising from the bankruptcies in England, which have occasioned the return of many bills from England protested. These are the causes which produce distress, and will continue to produce it until we are a people less dependent on foreign commerce. But believing as I do on this subject—viewing the effects of this great political moneyed institution with abhorrence, I would not vote for it, let the temporary distress be what it may. I would rather see the present crop of hemp brought to one deposite, which would make a bulk larger than this Capitol, and consumed with a lighted torch and ascend to the heaven in smoke as a bonfire, rather than vote for the passage of this law—and sir, the peo-

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der defeat and victory upon all the battle grounds of the Revolution. I will not be alarmed out of my vote by clamor, no matter from what quarter it may assail me. I never will be driven from my duty by alarms and fears. I will stand firm to the cause I conceive to be just, and the people will support me; they despise wavering and temporizing.

If you continue this charter of this bank twenty years more, you can never put it down. No, sir, instead of having petitions which would reach from the Speaker to the seat of the members, you would have them packed upon your table until they would intercept my view in addressing you. Yes, sir, they would rise up higher, and implore that goddess of liberty which presides over the deliberations of this House. We are told that this bank is necessary to the collection, the safe-keeping and the transmission of the revenue to different parts of the United States. It is stated that the State banks are strangers to us, and cannot be trusted with the deposit of public money. I am sorry to hear such a sentiment. It has originated from a panic, an alarm, ideal danger. That great and good man the Secretary of the Treasury has told you otherwise, by his report now before me of date 12th of January, in which it appears that of about \$2,400,000, upwards of \$800,000 are deposited in the State banks, \$75,000 of which are deposited in the State Bank of Kentucky, and I should be sorry if it was not as safe there as in the hands of the United States' Bank, in the possession of foreigners. If State banks will not do, let the United States build vaults for the safe-keeping of the revenue.

But, sir, the alarming consequences which must arise from a dissolution of this corporation—It will deprive us of a circulating medium; it will interrupt commerce and produce bankruptcies. It is to produce the distress of farmers and the ruin of merchants; it is to prevent emigration, and it is to shake the foundations of the Government. This picture gives me no alarm. It is the picture of a wild and distempered imagination. If serious injury will be felt by many in the power of this moneyed aristocracy, I feel and sympathize with the sufferings of those who may be needy without any fault of their own; but something is due to posterity; and even in that point of view, I am not willing to entail upon them the baneful effects of a great moneyed corporation with a capital of twenty millions of dollars, extending their arms of power and influence to every part of the United States, and having the destiny of good men within their control, whenever they receive the nod to exercise their giant

the ruins of this capital and mourn the fallen empire of this great and happy Republic.

Mr. SHEFFEY.—Mr. Speaker, it was my intention not to address any observations to you on the subject now before the House, but reasons which I cannot disregard have induced me to request your attention. I am confident, when the importance of the question is considered—a question in which is involved the integrity of a Constitution we all profess to adore, and the prosperity of a country we all profess to love, the House will listen to everything that can be said, not only with patience, but with pleasure.

I have been led to make the remarks which I am about to offer by considerations distinct from the intrinsic merits of the question. In the vote which I shall give, I shall disagree with a majority of my honorable colleagues, whose opinions are entitled to my respect. The sentiments of a great portion of the people of the State which I have the honor in part to represent, so far as they can be collected from the opinions of her Legislature, and my own, do not correspond on this occasion; and I must superadd that no question ever was presented to my mind in the course of my public duty which at first view appeared attended with more difficulty. I have therefore thought it proper to state the reasons of my vote to the House, to enable my country to appreciate them, and my constituents to interpose their corrective should they deem them unsatisfactory. I had hoped that this question would have been discussed, and determined, abstracted from all party considerations; that our attention would have been exclusively directed to the effects of this measure on the community, whose interests are committed to us; and our solicitude employed to keep within the limits prescribed by the Constitution. But we have been invited into a different course. My honorable colleague (Mr. EPPES) told us the other day that we need not to expect that this question would be determined on any other than party principles; that party principles gave birth to the charter of the bank originally, and that that was the first great question which separated the two parties in this country. Was the fact even conceded, the conclusion does not appear to me inevitable that this must now be a party question. At that time it was a matter of speculation and conjecture what means would be "necessary and proper" to give effect to the delegated powers confided to this Government. The light afforded to us by twenty years' experience has banished them, and substituted certainty in their stead. We have now before us the practical operations of the Government,

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But my honorable colleague has committed an error in point of fact in giving the statement to the House that this was originally a party question. I had taken it for granted that the fact was as stated by him; but, on recurring to the Journal of this House for the year 1791, (which I hope I shall be pardoned in receiving as better evidence than his declaration, however implicitly I might rely on him on other occasions,) I find that a considerable portion of the Federal members voted against the incorporation of the bank, and a still greater portion of the Republicans for it; besides, as the measure was then contested on the ground that there was no Constitutional power in Congress to adopt it, which always involves matters of conscience, I cannot submit to the idea that one political party exclusively entertained conscientious scruples when violence was threatened the Constitution. This would be degrading one-half of the American people.

[Mr. EPPES rose to explain: He said he apprehended from the various observations which had been made that he had been misunderstood in what he had said a few days ago. He meant to say that there were from the commencement of the Government two opposite opinions entertained with respect to its powers: One was that they were strictly conformed to the objects delegated; the other was, that there were certain implied powers which the Government might exercise that did not appear on the face of the Constitution; that the latter opinion gave birth to the alien and sedition laws, and the stamp act, and that this was the party principle he meant which gave birth to the bank charter. As to conscience being monopolized by one party he had never entertained any such idea; he knew men of the Federal party who were as conscientious as he was, and as much attached to the welfare of the country.]

Mr. SHEFFEY proceeded: Mr. Speaker, I do not believe that my honorable colleague was actuated by any improper motive in making the declaration he did. During the time I have been associated with him in public life, I have had no cause to believe that he was under any such influence. That the opinions stated by him existed early in this Government, cannot be denied. They are attributable to very obvious causes. On the one hand, those who were the friends of the Constitution were friendly to the exercise of all the legitimate powers confided to the General Government, under the impression that it was necessary to preserve the Union; many indeed suppose that the powers delegated were still too feeble to secure that great object, unless supported

into the councils of the new Government their solicitude for popular rights and State sovereignty, without sufficiently regarding the importance of the Union, and the means necessary to preserve it; and, while some of their political opponents contended for a construction which produced some very obnoxious measures; they, if success had attended their efforts, would have brought the Union to the feeble state in which the old Confederation had left it, and I hesitate not to declare, by this time, we should have been a divided, distracted, and enslaved people.

Much has been said in the course of this debate about State rights, and the offence which will be given to the States, should this measure be adopted. There is certainly propriety in preserving to the States their legitimate authority, and in manifesting a jealousy whenever it is threatened with any infraction, because the rights of the people are then in jeopardy. But let it not be forgotten that every relaxation on the part of this Government weakens the Union, without which the rights of the people are but an empty name. Sir, he who impairs the powers properly belonging to us, is as much the enemy of the people as he who subverts the State authorities possibly can be; he is as criminal who weakens in the least degree the bonds which unite us, as he who places upon our necks an iron yoke to keep us together.

If we should pursue the course which the observations of some gentlemen seem to recommend, not to adopt the bill before you, because it will give offence to the States, and bring us into collision with them; to what a miserable state must this Government, and consequently this Union, be very speedily brought? It is in the nature of man to thirst for power, and to employ all his means to obtain it. From this spirit the State governments are not exempt, but, on the contrary, we have abundant reason to know that it prevails *there* in an eminent degree. Let it once be established as a principle not to exercise any particular power, because it is disagreeable to some of the States, and I pledge myself that in a very little time you will not be able to exercise any whatever. You will have to recede step by step as they advance upon you, (which they will be sure to do,) until you possess nothing but the shadow of authority; and this Union, the last and best hope of the friends of liberty, must dissolve in its own weakness. Sir, I fear when that is gone there never will be sufficient patriotism and unanimity, nor a sufficient portion of a conciliating spirit to reunite us in any form of government which, while it secures to us the principles of a free constitution, the most effectual

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exercised by this Government which interferes with the remaining powers of the States. Such for instance is the power of internal taxation. Every cent which we draw from the citizen by virtue of that power, diminishes his ability to pay his taxes to the State of which he is an inhabitant, and consequently narrows the circle of State legislation. And, indeed, cases might be supposed where the necessity of this Government required taxes commensurate with the utmost ability of the people to pay, which in effect would be a total suspension of the powers of the States to lay and collect taxes. Yet can it be pretended that in the amount of public contributions, which it may be necessary to require, we are limited by any other restriction than that which a sound discretion and a due regard to the welfare of the community imposes? The same principle applies to the means which may be necessary to carry the delegated powers into effect; they may be legitimate, though they interfere with the legislation of the States.

Having detained you thus long with the preliminary remarks which I had to offer, permit me now, sir, to lead your attention more directly to the subject before us.

The most important principle involved in this question is, whether the Constitution has delegated to us the power to legislate upon this subject in the manner proposed. It is admitted on all sides that unless that power exists, let the inconveniences and even calamities which will follow the rejection of this bill be what they may, the high duty which we owe to the country not to transcend the limits prescribed to us, is superior to every other, and must imperiously lead us to that result. In order, therefore, to approach the minor question of expediency, it is necessary to ascertain whether by a rational and unbiassed construction of the Constitution this power is fairly apparent, either as directly or indirectly given, either as a power original and express, or derivative and implied.

It has never been contended that the Constitution expressly delegates the power to create banks; but that such institutions may be established as instrumental in giving effect to some one or more of the delegated powers. In the course of the observations which I propose to submit on this part of the subject, I shall attempt to prove that Congress are not restricted in the means to execute the delegated powers, except so far as the Constitution expressly restricts them, but that they may employ any which they deem "necessary and proper" without violating the Constitution.

To enable us to give correct constructions to

the Constitution, under whose authority we now act, was proposed and adopted, and consequently of the extent of the relief which that remedy was intended to give.

Let us then see what was the situation of this country at that period of our history, and what were the causes which led to that great event. It was not the want of a General Government that induced the people of the United States to seek security in the present Constitution, but the want of one with sufficient powers for the purposes of union. That want of efficiency which characterized the Confederation, emphatically styled "a rope of sand," was not the effect of the limited subjects confided to the deliberations of Congress, but the limited means to carry their determinations into effect. On recurring to that instrument it will be seen, as has been stated by an honorable member from Kentucky, (Mr. JOHNSON,) that the subjects embraced are little short of those vested in this Government. Congress was clothed with all the great attributes of sovereignty. They had the power to determine on peace or war; to regulate commerce (through the medium of commercial treaties) with foreign nations; to regulate trade with the Indian tribes; to grant letters of marque and reprisal; to coin money and regulate the value thereof; to raise armies and navies; to borrow money on the credit of the United States; and many other powers of minor importance. Had they had the means to carry their resolutions into effect through the agency of their own Executive and Judicial authorities, and could their acts have reached the people, instead of being dependent for their execution on the will of the States, I venture to say that this Constitution would not have been proposed. It is true that the organization of the Government under the Confederation was greatly defective; yet that was not the cause of its dissolution. It was the imbecility arising from the want of means in the old Congress that assembled the General Convention. It was that which produced the Constitution of the United States, the primary object of which, and of the people who adopted it, was to place into the hands of the new Government means commensurate with the due execution of all the powers confided to it. Is it rational therefore to suppose that under this impulse, under the pressure of the evil which every one felt, and the cause of which every one knew, those who framed and adopted this instrument could have intended that we should be circumscribed in the means deemed necessary to give effect to our measures or (as some gentlemen strangely suppose) be dependent on the States for them? Is it in the least probable that the

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tions which the circumstances of the times and the jealousies of the parties produced, but they being expressly stated proves that the means not interdicted remain entirely at our discretion.

When we examine the various parts of the Constitution with a view to this question, we shall see many reasons in support of the principle for which I contend. The last clause of the 8th section of the first article invests Congress with the "power to make all laws which shall be necessary and proper to carry into effect the delegated powers, and all powers vested in the Government of the United States or in any department or officer thereof." To whom is confided the right to judge what shall be "necessary and proper?" I presume it will be admitted that this right is exclusively inherent in Congress. And if Congress alone have the right to judge of the necessity and propriety of the means, is it not absurd to say that they must judge rightly or they have no right to judge at all? I have always supposed, when a subject is within the legitimate authority of any men or body of men, an erroneous decision upon such subject does not prove a want of jurisdiction, but of correct judgment. On this, like on every other subject, there will be a variety of opinions as to what is "necessary and proper." The majority must determine that question. And, although there may in this, as in every other case, be flagrant abuses of power, for which we are responsible, there never can be any usurpation. It must always be a question of sound discretion, guided by the interests of the Union, and not a question of power; unless, indeed, we should fall in with the fancy of my honorable colleague (Mr. BURWELL) who opened this debate, and interpolate the word "absolutely," so that he could adopt no means but such as are "absolutely necessary," which would leave us, as has been ably demonstrated by the honorable member from Maryland, (Mr. KEY,) without any power at all.

Every subject which is presented to us within the acknowledged sphere of our authority, involves the question whether it is "necessary and proper." If a tax be proposed, which (as the Constitution is expounded by some, and which I believe to be correct) can only be laid "to pay the debts and provide for the common defence and general welfare," it may be objected that it is unconstitutional, because these objects may be provided for without any tax, or without the one proposed. But there can be no doubt that this would be exclusively a question of expediency and discretion.

The Constitution of the United States has universally been considered as a grant of particular

clause, Congress might have exercised the power interdicted, had such clause not been made part of the instrument. By examining this part of the subject, we will be able to determine how far it was supposed derivative or implied powers would extend when not restricted.

The first clause of the 9th section of the first article provides, that "the migration or importation of such persons, as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

Among the delegated powers, the right to prohibit the migration or importation of persons into the States, is nowhere to be seen; but it was justly conceived that it was incidental to the power "to regulate commerce with foreign nations."

The second clause of the same section restricts the suspension of the writ of *habeas corpus* to certain circumstances. There is no express power given to any department to grant it in any instance. But Congress have the power to organize the judicial courts, to which is incident the power to regulate writs and other processes. And as this celebrated writ was deemed the birth-right of the people of the States under the State authorities, as the instrument to release them from arbitrary imprisonments, it was taken for granted that its benefits would be extended to them under this Government, and it was conceived necessary to restrict the discretion of Congress in suspending its salutary operations.

In the third clause of the same section, Congress are prohibited from passing any bill of attainder or *ex post facto* law. Congress are no where directly authorized thus to interfere with the ordinary course of justice, so as to subject an individual to the consequence of an attainder at their own mere will, without a trial; or to make an innocent act criminal, by a posterior declaration. But they have the power to define and punish certain offences, which would have implied the power to do it in any manner they might have thought proper—hence it became necessary to interpose this restriction.

The next three clauses contain restrictions on the power to lay and collect taxes and appropriate their proceeds, and show that it was considered as unlimited, unless expressly restricted.

The last clause in the same section gives us a more comprehensive idea of the extent to which the framers of the Constitution conceived the implied powers of this Government might be exercised, if not restricted. It provides, "that no title of nobility shall be granted by the United States."

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services. And as it would not have been restricted in rewarding them according to its pleasure, it might, in conformity with the usage of other nations, have conferred distinctions upon them; which, though they could give no exclusive right to office, might be attended with emolument and honor.

If the doctrines which have been advanced upon this floor during the present debate are truly genuine and Constitutional, then does the history of this country, for the last twenty years, present a spectacle the most alarming; then have the operations of our Government been nothing but an uninterrupted scene of usurpation. From its organization, under the auspices of the first of men and of patriots, until the present moment, violation has succeeded violation; the Constitution has been trodden under foot by all parties, and is no longer worth preserving. Sir, I will go further. I venture to say, that if those doctrines are adhered to and acted upon in every instance, this Government is at an end. It cannot adopt the simplest measures necessary for its own existence, and for the welfare of this people, without resorting to means not expressly delegated. If this critical construction prevails, we have no right to disband one single man from the Army or Navy. Congress are expressly authorized to raise and support them; but the power to lessen or destroy them, is not to be seen on the face of the Constitution. We are invested with the power to regulate commerce with foreign nations; but where is the authority to suspend or annihilate it by an embargo or non-intercourse, unless it is implied?

To those who are not carried away by these doctrines, pregnant with so much mischief to this community, it is well worth the trouble to examine the operations of the Government under every Administration. They will be able to ascertain the opinions of men of every party manifested by their public acts, as to the extent of the means confided to us to give effect to the delegated powers. And this inquiry will, I am persuaded, tend to confirm the construction which I have attempted to give to the Constitution.

By the Constitution, a judicial department, with limited jurisdiction, is established, to give effect to the due administration of justice, so far as it is confided to the Government of the United States. Congress have made provision for the punishment of perjury, bribery, stealing or falsifying records, rescue, opposition to the execution of judicial process, and other offences. It does not appear that the particular definition to these crimes, and the punishment designated, are "ab-

these cases Congress exercised their Constitutional power only?

The power to borrow money on the credit of the United States has been exercised by authorizing the Commissioners of the Sinking Fund to issue certificates pledging the public faith to pay so much money as therein stated, to be sold in the market for what they could bring.

To give effect to the revenue system of the United States, Congress have employed means, which, instead of appearing "absolutely necessary," have a very remote connexion with the object; besides the many penalties and forfeitures which are created, the citizen is subjected to the more arbitrary searches and seizures dependent upon the mere will of the collector; yet, the authority to do this has never been questioned. Under the power to regulate commerce, Congress have erected light-houses, beacons, and buoys; they have established rules for the regulation and government of seamen in the merchant service; they have adopted measures for their protection on the high seas, and in foreign countries; they have imposed a tax to be exacted from them, even when abroad, to raise a fund for the sick and disabled; they have established in this country, within the jurisdiction of the State authorities, and without their consent, hospitals for their reception and support. How remotely connected are all these things with the primary power "to regulate commerce?" Are they "absolutely necessary" to give effect to that power? Or, can it be pretended that the erection of an hospital is more immediately connected with the regulation of commerce than a bank is with the various fiscal operations of the Government? After having gone thus far, let me ask every rational man, could Congress not incorporate the trustees of such an hospital, with a view to give them individuality, the better to enable them to preserve the funds, and administer the concerns of the institution? Unless there is something magical in the word "corporation," it appears to me there can be no doubt on the subject.

That Congress have the right to create corporations, as instrumental to effect objects confided to them, seems to me susceptible of the clearest demonstration. For example: the power "to regulate commerce" includes the power to "promote it by all possible means." Suppose a new branch of commerce should rise into view, which promised great national advantages, but its commencement was surrounded with difficulties, and required resources to which individual enterprise and capital were incompetent, will it be contended that the power which erected hospitals to nurse seamen, because it may have a favorable

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the power to regulate trade with the Indian tribes, Congress have adopted a system which, though not a monopoly in name, is one in reality. They have established trading-houses on their own account, and, under the severest penalties, prohibited every person from trading with the Indians without a license from the public superintendent. What is this but a monopoly, an exclusive privilege, vested in the Government and the persons licensed? And in what do these licenses differ in effect from the privileges granted by the incorporation of a commercial company?

By the laws establishing post offices and post roads, various offences have been created, and severe punishment directed, affecting those not in the service of the Government; persons have been exempted from serving in the militia and on juries, who, by the laws of the States, are expressly subject to that service; this is a direct interference with the State authorities, yet its constitutionality has never been questioned.

The Constitution empowers Congress "to declare war," but no express authority is given to preserve peace; yet, can it be doubted that the power to effect that object is implied? With a view to it Congress have passed laws making it criminal to set on foot any enterprise against any foreign nation with whom the United States are in a state of amity, or to hunt upon the lands belonging to the Indian tribes.

Congress have power to call out the militia to repel invasions. An invasion, I understand to mean a military force actually in our territory; yet an authority has been given to the President to call forth the militia in case there shall "be imminent danger of invasion," with a view to prevent it.

The last instance which I shall give, showing the extent to which Congress have conceived their powers reached, is the purchase of the public library. I would ask the sticklers for express powers, where they find the authority for this act? Sir, taking a detached view of the subject, it might be said that we have the same right to purchase houses for our accommodation. The act can only be justified by reasonings apparently remote from the object. To us are committed the great concerns of this nation; it is our duty to be well informed upon every subject that comes before us; in order therefore to be able to get all requisite information, we think a library necessary as one of the means. This course of argument at once proves everything for which I contend.

Such, sir, has been the uniform practical construction of the powers confided to this Government by men of every political description. Sir, the principles, upon which the constitutionality

as I do, that among the greatest evils which attend Republics, are the instability of public councils, and the want of character and consistency in public measures, I feel it a portion of my duty to entertain some veneration for the acts of my predecessors, supported by time; at least so far as not to dissent from them, unless they appear to me palpably improper.

When the bank was incorporated, the people of the United States with one consent acquiesced; not a single murmur was heard; not a single petition was laid upon your table alleging its unconstitutionality and praying its repeal? Was the patriotism of the community then asleep? Were they less sensible than of the necessity of preserving the great charter of their rights free from violation, or less acute in their perception of its infraction than we are now? Was it left for the Argus eyes of the present generation to discover the deadly powers of this hydra; and to their prowess to rise and strangle it? Sir, I should reason differently. Believing that there was as much intelligence, as much vigilance and patriotism, in the country then as there is now, I am inclined to think that had there been real cause of alarm, it would, according to the usual course of things, have been manifested when the subject was new; and when the public attention was immediately directed to it.

Since the establishment of the bank several laws have passed for the punishment of frauds in counterfeiting their notes; one of them under the late Administration. If the incorporation act was unconstitutional, could any person be punished for counterfeiting the notes of the bank? A person accused must be indicted for having made or counterfeited a note or notes purporting to be the act of the president and directors of the bank. If the law is unconstitutional, then in legal construction there are no such persons; and as well might the accused be convicted of forging a note on some fictitious person, as the note of a bank when none such existed. How has it happened that in all the trials which have taken place, this ingenious discovery has never been made? The counsel, always sufficiently vigilant in the cause in which they are engaged, have never pretended to question the legal existence of the bank, involved in the constitutionality of the incorporation act. The courts, composed of the most enlightened men, and of different political parties, sworn to support the Constitution, have consigned the reputations of men to lasting disgrace, and incarcerated them within the confines of loathsome prisons, where they have been suffered to remain for years; when a single breath from the Executive would have released them, which it

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the United States on the credit of the Government. If the incorporation is invalid, then there is no corporate capacity in the president and directors, and they have no power to make a contract to loan the money of the stockholders.

The necessity of a bank to carry on the operations of the Government seems to have been admitted by all who have spoken in opposition to the bill on your table. But they have insisted that a bank created by the United States is not necessary, because the State banks will afford us the same conveniences. This admission, in my humble conception, completely surrenders the question. If a bank is necessary, as instrumental to give effect to our fiscal concerns, ought it not to be completely under our direction? Is the instrument to govern the hand that employs it, or the hand the instrument? The State banks are under the control of the State authorities, who may permit them to accommodate us or not, as they please. Can it be seriously conceived that this is the kind of Government the people intended to establish for the great concerns of this Union, which is to be dependent on the States for the execution of its power? It might as well be contended that we have no right to appoint the collectors of our revenue, because those appointed by the States to collect their taxes would answer all the purposes necessary.

But the honorable member from New York (Mr. PORTER) has said that there is nothing new in the doctrine that we should be dependent on the States for the execution of our measures, because the same principle appears on the face of the Constitution, that the agency of the States is requisite in the elections of Senators, Representatives, and Electors. Was this argument even apposite, I should suppose it a correct answer to say, that the intention of those who instituted the Government was to confine the agency of the States to the case expressly stated; and the present not being one of them, our own discretion was alone to be consulted and our means employed. But the argument has no connexion with the subject. We are dependent upon the States and the people for the organization of the Government; but, whenever it is organized, we are dependent upon our own means to give effect to our powers. As well might the honorable member have contended that we are dependent on the sheriffs of Virginia, who hold the elections and make the returns, and without whose agency no representation could exist from that State on this floor.

The argument which admits the necessity of a bank for the purposes of this Government, but which contests our right to create one, because

them to advance arguments which will make this Constitution (intended as the strong bond of Union, the same at all times and under all circumstances) a flexible instrument to be contracted or extended; to be feeble or strong, as the caprice of State power may direct? Call this what you will, sir, it is in reality nothing more than the old debilitated, miserable system of the Confederation. That a bank is necessary for the administration of the national finances is not only admitted by the opponents of this bill, but tested and confirmed by the experience of other countries as well as our own. Does the Secretary of the Treasury in his reports on this subject propose to manage our money concerns without the aid of any bank, in the event of a dissolution of the Bank of the United States? Such an idea has not entered into his imagination, or that of any other man who has the most distant pretensions to any practical knowledge on the subject. Sir, it is the instrumentality of the State banks that must and is contemplated to be resorted to in that event; and the Secretary speaks and writes of the subject in that way. That a bank is "absolutely necessary" I will not pretend to say. There is scarcely anything effected by human power where there is a physical impossibility to do it but in one way, or but by a single mean. The necessity of which I speak is this, that it is more convenient, more prompt, more certain, and less expensive than any system that can be substituted, to collect our revenue; to safely keep our money; to pay our debts; to support our Armies and Navies; and in fact, to give effect to every operation in which money is concerned. Sir, even the inconvenience arising from the expense and hazard of transmitting large sums of money to distant parts of the Union, when the military or other concerns of the Government require it, is very considerable; through the agency of the bank it is done without one single cent expense, and without any risk to the United States. The instrumentality of a bank was deemed proper at this time, when the fiscal concerns of this Government were comparatively but very limited. Congress under the Confederation found it necessary to have the aid of such an institution, notwithstanding they had not the power to "lay and collect taxes," and that necessity gave birth to the Bank of North America.

From the principles for which I contend and the uniform practice of the Government, this inference is deducible; that wherever a power is given to do an act or to legislate upon a subject, all the means, whether remote or direct, to accomplish the object in any manner deemed best,

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part can be united. This tendency banking institutions have in an eminent degree. Under the power to "regulate commerce," Congress have cherished and protected those whose labor contributed to its success. Under the power to regulate trade with the Indian tribes, they have furnished all the means to carry on that trade; and why not, under the power to "borrow money," incorporate a bank, which, while it creates the ability on the part of the institution to loan, by uniting the funds of many, may be so modified, as is the bill on your table, as to make it a condition that shall do so, when the necessities of the Government require it?

Sir, of the effects which the dissolution of the Bank of the United States will have on the community, I am perhaps incapable of forming a correct judgment, as I do not profess to have any very extensive practical knowledge of banking. But it appears to me, without resorting to any artificial means, judging only by the rules of common sense, that they must be very serious, and even calamitous. In a society like ours, comparatively yet in its infant state, I presume it cannot be asserted, with the appearance of truth, that there is a greater floating capital, or a greater portion of circulating medium than its necessities require. Withdrawing then from public use fifteen millions of dollars, at least one third of the whole money capital of the United States, (which it matters not whether it is in specie, or paper answering the purposes of specie) must be felt as a very great inconvenience. The products of the country must diminish in price, because their value according to the present standard will be much greater than the amount of money to purchase. One of two things seems to me inevitable, either that a great portion of the domestic produce will be inactive on our hands, or that the whole will sink in value to a level with the amount of money to purchase.

The merchants will more immediately feel the baneful effects of the dissolution of the bank. Their situation is at this time peculiarly embarrassing. Their property to a very large amount has been confiscated, sequestered, or detained for adjudication, in Europe, in consequence of the nefarious measures adopted by foreign Powers against our commerce; and a great portion is lying inactive in their warehouses for the want of a safe market to which to send it. Having failed in receiving their expected means by remittances from abroad, to enable them to comply with their engagements, they require more than ever the accommodation which banks can only afford. Disappointed in that, ruin must stare them in

may fly for shelter to the money capitalists, who reserve their means to prey on the misfortunes and calamities of their country, and borrow at exorbitant premiums; but though this may parry the evil, it is calculated to make it the more certain.

But we are told that the wants of the merchants can and will be supplied by the other banks. It may be so; but reasoning as I must without the aid of the mysterious elements of logic (for they are perfectly so to me) resorted to by those who pretend to practical knowledge, guided only by the rules of common sense, I should come to a different conclusion. I should suppose that in the present difficult and embarrassed state of our commerce, the whole banking capital in the United States is scarcely competent to supply the necessities of the country; that withdrawing more than one third must leave a great deficiency, which will not only have the effect of leaving those, accustomed to be accommodated by the Bank of the United States and its branches, without any accommodation, but tend to diminish the discounts of the other banks. Sir, this result is very obvious. The great capital, large deposits, extensive credit, and circulation of its paper, enabled the Bank of the United States and its branches from time to time, in the usual course of business, to have considerable claims on the other banks, as balances arising from the intercourse between them, which in ordinary times under the influence of an accommodating spirit are either not rigorously exacted, or received in paper. But when the affairs of this institution are to be finally closed, those balances must be paid in specie, and the specie of the other banks will of course diminish; they must then either curtail their discounts, or hazard their credit by leaving a surplus of paper in circulation beyond the usual means to redeem it; even the suspicion of which prudent and experienced men will never encounter.

Against the Bank of the United States prejudices have been excited and clamors raised in every shape and in every tone. It has been said to be a deadly viper lodged in our bosom, which at some time, if suffered to live, will sting us to the heart; fancy has converted it into a political engine which will subvert our liberties; an association of men who will prostrate our Government. Sir, had I nothing to direct but my imagination, I might perhaps be drawn into this vortex of terror; but there is a much safer guide at hand. These dreadful apprehensions have already been exposed, by the honorable member from Kentucky (Mr. McKee) who so eloquently the other day referred to the experience of the country as a con-

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seen that the bank, with all its influence in favor of the men formerly in power, could not avert the change which took place in the public councils of this country. After all this, let me ask every rational man what danger is to be apprehended from their opposition to the Government, when their aid and their friendship produced so little effect? The fact is, that practically the bank must always be friendly to the Government, whatever may be the abstract opinions of the individuals composing the stockholders.

Some of the arguments (or rather assertions) which have been uttered on this floor, are strangely inconsistent. At one time it is said that the capital of this bank is mostly the property of foreign stockholders, who thus have improper influence in this country, which ought to be destroyed by putting down the bank. When it is stated by the friends of this bill that it will be a great public inconvenience that upwards of seven millions of dollars in specie should be taken out of the country so suddenly, the same gentlemen tell us that that will not be the case, for that the foreign stockholders will vest their money in other banks in the United States. Is this the way by which we are to get clear of foreign influence, by driving it from its present confined situation, that it may be infused into every concern in this country, and corrupt every part of the body politic? Foreign stockholders either have undue and improper influence injurious to our welfare, or they have not. If not, why this clamor, unsupported by any real danger? If they have, is it not augmenting the evil by extending the circle of its operations?

So much has been said about the improper influence which foreigners have in our country on account of their being stockholders of this bank, that it merits a more minute inquiry; directed not by prejudice, but by common sense, and governed not by assertion but by fact. On looking into the act incorporating the bank, I discover that no person but a citizen of the United States can be a director; that foreign stockholders have no right to vote, either in person or by proxy, for directors. Now, I would ask, without any of those privileges, how is this foreign influence put in motion? Through what channel is it communicated? Sir, the influence is the other way, if any. These men have their interest committed to the care and control of our Government and our citizens, and so long as men feel an affection for their interest, so long something like influence arising from this circumstance may be expected.

The mere employment of foreign capital, in-

he draws eight per cent. as a dividend, which yields us twelve or fifteen; and the tendency it has to promote the wealth of the nation may be exemplified by supposing the case of an individual, who borrows money at six per cent., which, by applying its use to proper objects, yields him twelve. It would make no difference to such an individual whether the person loaning was a foreigner or a citizen; he had furnished the means which made him rich, while without them he might have remained poor. So it is with this nation; we have grown wealthy from a comparatively poor state; in this change the employment of foreign capital has had great agency.

It has been alleged against this bank that it confines its selection of directors to one political party, as well as its accommodations. As to the political complexion of those who manage the concerns of this institution, I have no personal knowledge; the fact may be as stated. Without approving of this course, which I by no means do, I conceive that, in all money associations, those interested may safely be trusted to manage "their own affairs in their own way." The statement that the bank confines its benefits to its own party, if true, certainly shows intolerance, and would be with me highly objectionable. But I have great reasons to doubt the fact. I have been told by one of the directors of the office of discount and deposit at Baltimore, that more than one-half of the amount of discounts was granted there to persons of opposite political sentiments from the direction, and as nothing but suspicion and surmise have been offered in support of the imputation, I am induced to believe that, as it respects other places, it is equally unfounded. These things, however, if even true, would have no effect on my vote on the present question; for, if the objections are valid, they affect not the principles of the institution, but its management.

I have detained you longer than I intended. My apology for occupying so much of your time must be found in the great interest which this question is calculated to excite; a question on which I confess my opinion heretofore inclined the other way; it was, however, like many opinions, formed without a thorough investigation of the object.

Permit me, in conclusion, once more to direct your attention to a subject of the first importance, on which I have already made some remarks. I mean the partialities which have been manifested for State rights and State pretensions. This subject has been presented to us in the most lively and interesting colors. To pass the bill on your table has been deprecated as leading to

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pendently, but only in the character of humble instruments, to register the will of others, let us not act at all. I conceive it a duty equally imperious, from which I have taken a solemn oath not to depart, to oppose the encroachments of the States, as I do not wish to encroach on them. It is as essential that we should exercise the powers confided to us, uninfluenced by them, as it is that they should exercise those reserved to them, without being influenced by us.

If it is seriously wished that this Government and this Union should be preserved, it is time that the spirit of encroachment and control assumed by some of the States should be discouraged. If it is suffered to gain strength by our compliance or acquiescence, it will ultimately subvert that liberty and independence purchased by the blood of our best patriots. Here is, indeed, a viper, much more deadly than the one fancied by the honorable member from New York, (Mr. PORTER,) which, if you do not expel it from your bosom, will surely sting you to the heart—sting you to death. The experience of the two or three last years sanctions the apprehension that the seeds of disunion will be sown by the State authorities. There is no well-grounded fear that any encroachments by us on the States can ever be successful; they have many means to resist them; they who administer the State governments are comparatively numerous and dispersed through every part of the community; hence, they will always be able to collect to themselves and to their measures a greater portion of popularity than we have in our power. The distance of many parts from the operations of this Government, and the nature of our powers, create jealousy. If to these causes are added fear and imbecility on our part, the bonds which unite us must become every day more enfeebled, until this Union shall be destroyed. A Union in which is involved everything dear to freemen, and which I had fondly hoped would endure to the end of time.

The House adjourned without taking a question on the motion.

WEDNESDAY, January 23.

Another member, to wit: from Virginia, JOHN RANDOLPH, appeared, and took his seat.

Mr. EPPES, from the Committee of Ways and Means, presented a bill to amend an act, entitled "An act to regulate and fix the compensation of clerks, and to regulate the laying out certain public roads, and for other purposes;" which was read twice and committed to a Committee of the Whole to-morrow.

sioners appointed to fix the permanent seat of Government therefor, in trust, for the use of the said Territory, at the same price for which other public lands are sold.

Ordered, That the Committee on the Public Lands do prepare and bring in a bill pursuant to the said resolution.

Mr. MORROW, from the same committee, also made a report on another petition of the Legislature of the Indiana Territory, referred on the twenty-first instant; which was read, and the resolution therein contained concurred in by the House, as follows:

Resolved, That the prayer of the petitioners ought not to be granted.

On motion of Mr. McKEE,

Ordered, That the memorial of William Lambert, of Virginia, presented the twenty-seventh of December, 1809, be referred to a select committee.

Messrs. McKEE, GARDENIER, TURNER, MITCHILL, and QUINCY, were appointed the said committee.

Mr. ROOR, from the Committee of Claims, presented a bill for the relief of Lieutenant Colonel William Dent Beale; which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. McKIM also presented a petition of sundry mechanics, manufacturers, and traders, of Baltimore, praying the renewal of the United States' Bank charter; which was ordered to lie on the table.

The bill from the Senate, entitled "An act concerning the communication, by water, along the Northern confines of the United States, and for other purposes," was read twice, and committed to a Committee of the Whole on Tuesday next.

The bill from the Senate, entitled "An act to incorporate the Union Bank of Georgetown," was read twice, and committed to the Committee of the Whole on the bill concerning the Bank of Alexandria.

Mr. MITCHILL offered to the House of Representatives the report of the select committee, to whom was referred, on the 19th January, 1811, the memorial of John Bioren, W. John Duane, and R. C. Weightman:

"The memorialists inform Congress that they meditate a new, methodical, and corrected edition of our national law, consisting of, 1. All the public acts now in force. 2. The decisions of the national courts thereon. 3. Treaties and conventions with foreign nations and the Indian tribes. 4. Titles of all the statutes repealed, obsolete, and expired. 5. More explicit marginal notes and references. 6. Particular and general

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sufficiently rewarded, in the ordinary way of business. But it is also believed, that it will be expedient to furnish the public offices, at least to a certain extent, with these improved copies. For the purpose of receiving this advantage, and of extending, at the same time, a portion of the public patronage to the undertaking, the committee recommend the adoption of the following resolution:

Resolved, That the Secretary of State be authorized to subscribe, for and in behalf of the United States, for — copies of Bioren, Duane, and Weightman's edition of the statutes, treaties, and conventions: *Provided*, The same shall be executed in a correct and faithful manner, and in a form and of a price which he shall approve: and that Congress will, by law, provide for the payment of the same."

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The House resumed the consideration of the unfinished business. The motion for indefinite postponement still under consideration.

Mr. CRAWFORD.—Mr. Speaker, a solemn impression of the duty which I owe to the public, and more particularly to that portion which I more immediately represent, can alone induce me, awkwardly circumstanced as I am from habit, to come forward on the present occasion; or support me under the embarrassment I feel, in presuming for the first time to deliver my sentiments on a question of great national importance before a deliberative assembly. The subject having been already very amply examined, I shall confine my remarks to a very few of the most prominent principles connected with the bill. In so doing, I shall manifest my inclination rather than my ability to perform my duty. Indeed, after the eloquent and conclusive argument of the gentleman from New York, (Mr. PORTER,) on the constitutionality of the bill for the renewal of the charter of the United States' Bank, any farther attempt to elucidate that part of the subject may appear equally unnecessary and impertinent. But as some very partial and indirect attempts have been made to set aside his argument, I request your indulgence, while I endeavor to investigate the positions relied on by his antagonists as a means of palming this counterfeit again upon the nation for twenty years longer. If, in this discussion, I depart from the usual form of addressing you, by giving it somewhat of a colloquial form, I must rely upon the liberality of the House for indulging so unusual a claim upon their attention.

As a Representative of the people, then, I assume what has been called an inclusive power to establish a bank, as incidental to the power granted to lay and collect taxes, duties, imposts,

and all other powers vested by this Constitution in the Government of the United States, or in any department thereof. If, therefore, I consider a bank as *necessary* and *proper* to carry into effect the power to lay and collect taxes, it thence becomes a power growing out of Constitutional authority, and it is my duty to carry it into execution.

Here I am interrupted by my constituent, who objects, that I have failed in the establishment of my premises, and in proving that a bank is the most suitable means to accomplish the end in view. That many other measures more adequate present themselves to his mind; and if taxes may be collected by safer and better means, banks become, agreeably to your own doctrine, unnecessary, and therefore unconstitutional.

This objection I endeavor to surmount, by alleging that banks, by furnishing money, provide the means of purchasing the fruits of my industry; and thus, by bringing more competitors into the market. I am enabled to dispose of my productions with greater certainty, and at a better price. Hence, I am qualified to comply with the demands of Government, without seriously suffering from the pressure occasioned by such demand. Banks, therefore, affording more convenient means of paying taxes, become necessary and proper to their collection, and are therefore Constitutional.

Here, again, my constituent objects, that those who hold bank paper will not part with it without adequate value, in produce or other property. If it should so happen that there shall be little or no demand for such produce, or property, the paper holder will either refuse to exchange his paper therefor, or reduce the price in proportion to the unsaleable or perishable nature of the commodities offered. Nay, having, by his fictitious representative, nearly banished gold and silver from the market, he may feel disposed to take an undue advantage of this withdrawn competition; and thus farther diminish or destroy the capacity to comply with the public demands. Banks, therefore, afford only a problematical resource on which to rely for the payment of taxes. They are themselves the effect, and not the cause, of increased commercial prosperity. The consumption of, and demand for, the articles produced, furnish the true means of meeting all demands, by the equivalent given for such productions. Bank paper stands, by agreement, as the sign only of such equivalent, and not as the thing signified, and possessed of intrinsic value. The thing signified is, therefore, alone essential to the payment of taxes. This is the result of my la-

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strongly enforced by tracing it through its various relations and tendencies. The Constitution prohibits the State Legislatures from making anything save gold or silver a legal tender. Hence you may infer that Congress possesses the power to establish a Bank, and make its paper a legal tender. For, if they possess a power to establish a bank, as a means for the laying and collecting taxes, they must also possess the means of making such bank paper efficient. If they possess a power to make bank paper a legal tender, to support the institution of a bank, they possess likewise the means of enforcing this power. The best means of enforcing this power is a standing army.

Congress, therefore, according to your doctrine, possesses the power, in the last resort, to compel us, at the point of the bayonet, to receive their bank paper, as a legal tender; that they may give facility to the laying and collecting of taxes. Such are the dangerous conclusions to which the admission of such arbitrary doctrines necessarily leads—doctrines, to which, I trust, we will neither of us submit, while life remains. But I will now endeavor to show that you possess no Constitutional authority to enforce such tyrannical doctrines. In article tenth, amendments to the Constitution, the doctrine is expressly laid down, that, "the powers not delegated by the Constitution to the United States, nor prohibited by it to the States, are reserved to the States respectively or to the people." But the power to erect banks is no where prohibited, by the Constitution, to the States; it is therefore reserved by it to the States respectively, or to the people. Congress therefore cannot usurp this power over the States, so explicitly and expressly reserved, without a flagrant violation of this (not an interpolation as it has been jesuitically styled, but) integral part of the Constitution. This opinion is confirmed by article ninth, amendments to the Constitution, which declares, that the enumeration in the Constitution of certain rights shall not be construed to deny, or disparage, others retained by the people. But the people have retained the right to establish banks—for all banks not delegated to the States respectively, or to the people. The States and the people have exercised this right. Their power to do so has never been questioned. Every attempt to exercise this power, on the part of Congress, is an encroachment on this right—is a denial or disparagement thereof; and becomes thence a violation of the Constitution. The States are prohibited from making anything but gold and silver a legal tender. They possess an unquestionable right to erect banks—but they

of Constitutional authority to create a National Bank, I will proceed to satisfy you that you are clothed with no such dangerous power.

By the Constitution you are merely the servants of the people, acting under a specific power of delegated trust. You are strictly limited to the powers therein delegated, or to such incidental powers, as are necessary and proper to carry into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof; that is, you shall possess all the means necessary and proper, provided the powers vested in you by the Constitution cannot be carried into effect without such means; or where your power to use such means is not doubtful or limited. In article fifth of the Constitution we are instructed, that—

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by three-fourths of the several States, or by conventions in three parts thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

If the States and the people were so extremely cautious and guarded in procuring any amendment to the Constitution, will they calmly witness a sacrilegious infraction of its most sacred principles? Will they permit you, by a constructive power, to create rights which deny or disparage those which they have expressly reserved to themselves? Have they not ordered you, whenever your powers are doubtful, defective or limited, to apply to them for the remedy? Have they not explicitly provided the manner in which such remedy shall be applied? They have not permitted you to cut and carve for yourselves. A power is given to lay and collect taxes, duties, imposts, and excises. You shall have collectors and excise officers as incidental to their execution; you are to provide the safest depositories for them within your Constitutional reach; you must preserve them under your perpetual control by contract; you will be allowed stationery, store room, and house rent, with every other essential accommodation; but as we have reserved the power of creating banks to the States or to ourselves, you can claim no Constitutional power over them,

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Such a conclusion facts will not justify. It is a most dangerous doctrine; it is an abandonment of the State sovereignties, who have for twenty years practically opposed and denied such doctrine. More than three-fourths of the States have, for a large portion of that period, been in the practice of establishing banks within their respective State sovereignties. If they had divested themselves of this sovereignty, by a delegation of such power to the United States, they would never have dared to exercise such a flagrant usurpation of power. Congress could not, without violating their oaths, have permitted this usurpation of their delegated authorities. Upon all other occasions they have been sufficiently jealous of the encroachment of State authorities. Can it be imagined that they would have witnessed such a daring and dangerous innovation, if such powers had been unequivocally delegated? On a subject of such magnitude, no one can believe such improbable suppositions. But it is all-important to the peace, safety, and happiness of the Union, that this subject be fully and fairly met; that it may be set for ever at rest. It is a subject on which we cannot suppose the Constitution was intentionally silent; provided the power was intended to be given by the States. It is one in the exercise of which collision would most frequently occur. The power would therefore be expressly given, expressly reserved; or, an agreement made to share it mutually. If any such agreement exists, it must, from the necessity of the case, be specific, express, and accurately defined and limited. No such compact exists in the Constitution of the United States. Upon this subject there is therefore only one alternative. The power is either expressly given or reserved. It is of too imperious a nature to be sought for by implication, inclusion, or as an incidental means to carry any other power into effect. It has never been contended that any such power is expressly given by the Constitution. If it had ever been parted with, it was all-important that it should have been parted with expressly. If it has been parted with, it can be shown. If it can be shown, it requires no casuistry to support it. Casuistry may involve and obscure, it can but seldom enlighten its subject.

The sole power given to the United States, to coin money, regulate commerce, or make war, has never been questioned. Upon these subjects no State has ever shown a disposition to interfere, either with the powers, or the means necessary to carry these powers into effect. No similar delegation of power on the subject of banking can be shown. It is therefore expressly reserved. For if it has not been so reserved, the individual

period. Those who advocate the power of the United States over this subject must yield the sovereignty of the individual States. They must show this yielding of sovereignty, otherwise their power is a usurpation. They have not shown any such delegation of sovereignty by the States. They never can show it, in this Constitutional instrument. It is therein expressly reserved. For, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Obliged thus to abandon my Constitutional position, I endeavored to rally my scattered forces, on the extensive field of expediency—I expatiated on the immense advantages resulting from a common circulating medium, the facilities afforded thereby to our fiscal and commercial relations, and the stimulus given to industry by a large foreign capital. My constituent suddenly arrested my progress, by observing, that it appeared idle to consume our time in castle-building, while we possessed neither the power nor the materials, to erect them. For, when the Constitutional authority is denied, no expediency can justify such an assumption of power. Such an assumption would, if acquiesced in, break down all the moulds raised by the people for their protection against the lawless encroachments of power. It would remove those landmarks, set up by them for their guide; and whenever such encroachments would be attempted, expose them a defenceless prey to their enemies. I will, however, offer a few observations on the subject of expediency; and hope to show you that, even on that ground, you are exposed to defeat. As to the fiscal operations of the country, they may be readily and safely conducted through less dangerous channels; by a different modification of means, within Constitutional reach. A large foreign capital is equally susceptible of being injuriously, as of being beneficially employed. We had better remain unemployed, than use means to promote industry which may only place us more completely at the discretion of foreign Powers; by giving them the discretion of, and command over, our industry. It cannot be questioned, that the large foreign capital in our country has been highly instrumental in deluging our country with unnecessary and extravagant articles of foreign growth and manufacture. These foreign gewgaws have nearly destroyed our economical and simple habits, as an agricultural people; and rendered us tributary to those foreign Powers, whose meretricious arts have inveigled us into such prodigal consumption of their commodities. The same funds have been employed to retard our progress

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fidious encroachment upon the dearest rights of freemen.

Again, I endeavored to arrest the glowing progress of my constituent, by directing his attention to the numerous memorials on our table; painting, in fascinating colors, the beneficial operations of this institution on our country, and its Government: and, shading the back ground of the picture in sombre colors, with the ruin which a refusal to re-charter the Bank of the United States must bring down on the devoted heads of our State banks, and our commercial cities—and which threatens to extend its desolations to every description of our citizens.

What, my friend! exclaimed my constituent, have these basilisks so fascinated you, by their legerdmain artifices, as to deprive you of the evidence of your senses? Have you not, from the same description of people, numerous representations which boast a redundant capital? So redundant as to induce them to vest their superfluity of wealth in speculations upon British manufactures, and other articles of British commerce, by anticipated remittances? Is it unreasonable to trace these contradictory statements to the same impure source? May not this redundant wealth consist of national or mercantile deposits, in the National Bank, granted to such special friends as trade in British commodities, to favor their immense importations, and destroy our infant manufactures, that they may shackle our commerce in foreign fetters? May not the fictitious capital of the same institution be employed to coerce American citizens—the friends of American prosperity and independence—into a renewal of their favorite bank charter? To this rational solution of memorials so contradictory in their nature, I could offer no satisfactory reply—I gave up the cause as hopeless, on American ground. As an American citizen, I can never yield my assent to a measure, so apparently pregnant with mischief to the rights and liberties of my constituents. I cannot thus betray the confidence reposed in me as a representative of the American people, or violate the oath which I have taken to support the Constitution of the United States.

Mr. GARLAND said he was sensible of the anxiety of the House on all sides to take this question, and it was with extreme reluctance that he now trespassed on any portion of their time; but, as he should probably on this question give a vote different from that of most of his colleagues and many of his political friends, with whom he had been accustomed to act, he trusted that he should stand excused for the small portion of time that

the United States was granted, I cannot be so uncharitable as to believe that they would have been the first to violate its sacred principles. I am willing to believe that they possessed as much understanding and patriotism as we do, and, therefore, believe that they would not have been the first to violate the sacred principles of that instrument. In this opinion I am strongly supported by the conduct of the different States, the most of whom have passed laws for punishing, and have consigned to imprisonment the counterfeiters of the notes of this bank. I presume it will not now be contended that all the States have united in carrying into execution an unconstitutional law, and that the United States have, at different times, and under different Administrations, recognised its legality and enforced its principles for nearly twenty years. It does appear to me, Mr. Speaker, that the uniform acquiescence of the country in a measure for such a length of time, should put the Constitutional question at rest, and, for the sake of something like stability in our proceedings, this should be considered as an adjudicated case, in which the law and Constitution seem to have been settled by universal consent. But, Mr. Speaker, I will call your attention for a single moment to the eighth section of the first article of the Constitution of the United States. It will there be found that "Congress shall have power to lay 'and collect taxes, duties, imposts, and excises, to 'pay the debts and provide for the general welfare of the United States, and to pass all laws 'which are necessary and proper for carrying 'the foregoing powers into execution." I shall attempt to show from this clause in the Constitution that Congress have ample power to pass the bill for extending the charter of the United States' Bank, and this I expect to do, without calling in the aid of the general grant of powers as contained in the Constitution—from which some gentlemen seem to turn with such disgust—and in discussing this point, I shall attempt to reason on things as they now exist. Congress have imposed duties and imposts, which, from their nature, must be collected in the different States. Then, connected with the right of laying is the right of collecting, and with the right of collecting is that of deposit and transmission, in that manner which is best calculated to carry on the fiscal operations of the Government; and the proper inquiry for this House is, How can these objects be best effected? Will not a bank be most desirable, on many accounts, and one, the paper of which shall be well known and well circulated throughout the United States? This bank

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tion is satisfied, and is not made to depend on being absolutely necessary, as gentlemen seem to argue. And whether this is done by one individual, or by the incorporating of a number of individuals, is not material on the present question, only as it relates to effecting the object, and that will be best effected by the incorporating of a number of individuals, extending their offices of discount and deposit from one end of the United States to the other, all linked together by common interest and duty.

But some gentlemen say that this will be a corporation, and that all corporations are anti-Republican. This is a naked assertion, and is unsupported by any kind of evidence. The propriety of granting acts of incorporation is made to depend on the object to be accomplished thereby; and, to my view, republicanism has nothing to do with the present question. This is only the means necessary to carry into effect one of the specific grants of power contained in the Constitution. But it has often appeared to me that the word "republicanism" is used in this House as a kind of watchword, without any appropriate meaning or application to the subject under consideration, and in this case it seems to be addressed to the feelings of members more than to their judgments. But, sir, will it be said that to collect and transmit the revenue of the United States free of expense is an anti-republican measure? I presume not. Is any man's rights invaded, or are the great principles of equal liberty destroyed? I presume not. Then what can republicanism or anti-republicanism have to do with the present question? It does appear to me that it can have nothing.

But, gentlemen say, they can furnish us with a substitute to carry on the fiscal operations of Government. And what is that? One gentleman tells us to collect the revenue in specie and ship coastwise; and another tells us that the State bank paper will answer all the purposes of the Government, and that the State banks will be safe places of deposit for your revenue. But have not these gentlemen furnished you with strong arguments against both of these plans? They tell you that you need not be under any apprehension of the specie being carried out of the country; that the risk would be so great that no man in his senses would attempt it, and, notwithstanding they recommend it to this House as a course to be pursued by the Government. They also tell you that State banks are not to be trusted; that they carry on a kind of licensed fraud, and issue their notes to a large amount without having any specie in their vaults. If this be true, then, I presume that they would be very

that chain of connexion throughout the United States that would enable them to transmit the money to such places as the demands on the Government might require.

Then, Mr. Speaker, if the Bank of the United States shall be put down, (a measure which I consider almost certain,) your revenue will be payable in specie, and nothing else can be received agreeable to the existing laws of the land. And have gentlemen given themselves time to consider where this specie is to come from? Have they reflected that, from the best data on which we can form a calculation, there are less than twenty millions of dollars in actual specie in the United States; a sum not more than sufficient to meet the demand of the Government in one year of commercial prosperity, even if it was in your power to unlock the chest of every miser, and to bring into circulation every cent of actual specie now in the United States? And this, you well know, will not be in your power. And was it in your power to bring into the Treasury of the United States the whole amount of specie now in the country, and in that way were you able to discharge the demands of the Government for one year, what will then be left to give currency to the bank paper as a circulating medium in the country? To give currency to bank paper, it must carry with it a belief, at least, that there is, in the vaults of the bank from which the paper issues, a sufficiency of actual specie to render to you a dollar in specie for every dollar in paper which you return them. But, Mr. Speaker, this impression cannot be made in the present state of things. It will very soon be known that the Treasury of the United States has gathered into its vaults all the actual specie in the country. This being the case, there can be no specie in the vaults of the bank. Of course, the paper will cease to circulate, or, if it circulates at all, it will be at a rate below its nominal value.

But, sir, will those gentlemen who advocate the doctrine that State bank paper shall be receivable in discharge of the revenue tell me who is to make the selection from amongst the banks; whose paper is to be received? Do they mean to throw the responsibility from their own shoulders on the Secretary of the Treasury, and make him individually liable in case the bank should fail? I presume not. This would be an unreasonable responsibility. And if this is not the case, the public revenues will be exposed to great risk, and frequent losses will be the certain consequence. In addition to this objection, if the Secretary of the Treasury is to be left at his own discretion to take such State bank paper as may suit his mere will and pleasure, without any individual liabil-

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office, and we know not who may be his successor; and if there was a certainty that he would continue to administer the fiscal concerns of the Government, still, I contend that it would be unwise and unsafe to place so much power and influence in the hands of any officer of the Government that is so far removed from the people, and to whom he feels no kind of responsibility.

But, sir, if the Government refuses to receive State bank paper, as I presume they will, then it must depreciate, and will no longer be a circulating medium in the country at its nominal value. We shall then witness the strange phenomenon of a country, with an export trade worth upwards of seventy millions of dollars annually, without one single cent in circulation that will be a tender in the payment of debts or receivable in the purchase of produce at its nominal value. How far this will comport with the interest of this nation is for those to determine who preside over its concerns. It has always been my opinion that the true interest of a nation consisted in her having a circulating medium at least equal to her export trade and one year's revenue; and, if she did not possess that in actual specie, it should be the wisdom of Government to create an artificial capital equal to those objects—and that it should be so secured as to possess the confidence of the nation. Without this circulating medium, the spirit of industry will be checked, agriculture will no longer flourish, and a universal stoppage of payment must take place. I hope gentlemen will at least take time to reflect before they draw down on their country those direful evils, and will not suffer their minds to be occupied too much by party feelings, which in my opinion have nothing to do with the present question. But some gentlemen seem prepared to denounce every man who does not give his negative to the bill under consideration. Sir, considerations of this kind will have but little weight with me. I know no party but the people; I know no interest but the public welfare; and I shall, on this and all other questions, which are presented for my decision, give such a vote as in my judgment is best calculated to promote these great objects; and if I err, I shall have the consolation that I have independently exercised my best understanding and that I have not been the blind follower of any political party.

But, Mr. Speaker, I will take gentlemen on their own ground for a moment, and see how this measure will operate. They say that the State banks will go on to issue their paper and it will continue to circulate as usual; but, sir, let it be recollected that by the dissolution of the

desirable; for although you may by your measures reduce the price of tobacco, flour, hemp, &c., still you will not be able to procure a bushel of salt or a pound of sugar for less than what it is now selling for. But my honorable colleague (Mr. BURWELL) seems to think that this would be very desirable. He says it would reduce the price of labor, and in that way the farmer and planter would be forced to abandon his agricultural pursuits, and become a laborer in some manufacturing institution, at low wages, and thereby enable the manufacturer of this country to undersell the manufacturer of Europe. To my mind this appears to be a wild theory, at war with the best interest of the country. I consider agriculture as the fountain of wealth in this country, and commerce and manufactures as the handmaids, and I never can consent to the depression of the former for the benefit of the latter. It would be with extreme regret that I should see the independent cultivators of the soil obliged to abandon their farms and take up their residence in a workshop, and become the dependants of some lordly tyrant, instead of being the independent cultivators of the earth. In addition to this, I have always considered the agriculturist as the best citizen; as entertaining more rational ideas of liberty, and being more strongly attached to the independence of his country; and it is on agriculture that we must rely for wealth in time of war, and it therefore has a primary claim on the patronage of Government.

The gentleman from New York (Mr. PORTER) has told us that, inasmuch as the friends of the bill under consideration have relied on different parts of the Constitution, therefore no one part gives us the power. The singularity of this idea is manifested to the weakest capacity, and the fair deductions very apparent; I presume, that if the measure can be supported and justified under different views of the Constitution, it proves that the measure is abundantly justified on Constitutional grounds, and that it is in unison with the general principles of the instrument. And shall we be told, because it has the support of many parts of the Constitution, it is weaker than if it had only one? To exemplify my idea, suppose a proposition in arithmetic that by many modes of calculating you could arrive at the same result, would it be said that this was less true than where you could only come at the result in one particular way? I presume not. But Mr. Speaker, if any measure could derive strength from the inconsistency of its advocates or opponents, then, sir, I am persuaded that the opponents to the bill have done as much in its favor as its friends have. I beg you, sir, to recollect

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ital stock is owned by foreigners; and here they attempt to awaken all the angry feelings of the nation against the use of foreign capital, while they carefully keep out of view the fact, that a Republican Administration sold to foreigners all the capital which they had in this bank; and thus, by uniting all those heterogeneous objections, a majority is formed in this House opposed to the passage of the bill. But, sir, I do not expect to derive any aid from these incoherent objections as giving any support to the bill; for, from the zeal that gentlemen have shown in their opposition to this bill, it was to be expected that they would touch every string that was likely to sound in unison with the feelings of any part of this House. Mr. Speaker, I shall pass over many of the minor objections that are made to the passage of the bill now under consideration, and come to the conclusions of the opponents of the measure. They are obliged to admit that the establishment of such a bank as is contemplated by the bill under consideration would be convenient and would aid the fiscal operations of the Government, and say that if it was the only way in which the finances of the country could be administered, then it would be justifiable. And here, in my opinion, the gentlemen give up the Constitutional ground; for, if the measure be necessary and proper to carry into execution any of the specific grants of power contained in the Constitution, then the plain language and meaning of that instrument is satisfied, and is not made to depend upon the question whether there is no other way in which it can be done.

I have endeavored, Mr. Speaker, to examine this subject with candor, and prepare my mind to decide, on it without taking into view the ruin of thousands, that must be the certain consequence of withdrawing from circulation at one time so much of the floating capital of the country. And it does appear to me, in every point of view in which I have been able to examine it, that at this time to break in upon the established order of things, under which the United States have progressed in wealth and prosperity unexampled in any preceding twenty years, would be, to say the least of it, a dangerous experiment.

Mr. NICHOLSON.—Mr. Speaker: As I shall vote against an indefinite postponement of this bill, because I shall vote for the entire bill, when rendered as little liable to objections as possible; and as this vote will probably stand at variance with many of those for whose opinions I entertain a high respect, I deem it essential, as well for my justification as for the information of others, to state the reasons upon which my vote is to be

tries, united in a general expression of a conviction of its utility, not only as it respects personal convenience, but also as it regards the facility with which the financial affairs of nations can, with its aid, be conducted.

As this subject has become quite interesting, it becomes the duty of every one to assist in an endeavor to throw all possible light on the subject, not only as to the constitutionality of this Government legislating upon it, but also as it regards its operations and effects; in order that we may have as clear a view of the whole ground as possible, and thereby be better enabled to judge with more certainty of the merits or demerits of the bill now under consideration. I shall therefore endeavor to explain my views of the subject as concisely as possible; and if I shall, in any respect, be found groping in the dark, in the remarks which I shall offer, I trust that an ordinary degree of candor will be sufficient to shield me from the imputation of sinister design. First, then, as to its constitutionality.

Perhaps, sir, the doubts entertained by some, of the constitutionality of this bill, arise from an extreme, and, as I conceive, unfounded jealousy, that this Government is calculated gradually to usurp the powers of the State Governments. This jealousy is a foible with many well meaning legislators; I however respect it, as I am sensible that it arises from a good motive; and I believe that if it be kept within reasonable bounds, it may, at least, be of no disservice in preserving our federative system of government. Probably we in some measure derive this jealousy of the exercise of powers from our ancestors. The Crown, the Peerage, and the Commons, of Great Britain, are three distinct and conflicting interests—the Crown to preserve its prerogatives—the Peerage to preserve their privileges—and the Commons to preserve their rights, if they can. But here, sir, we have neither Crown nor Peerage—we have no interest but the interest of the Commons, or the People. Our General Government, as well as our respective State governments, emanate directly from the people; the people have the same control over each; and why we should be so jealous of the former, and so partial to the latter, seems somewhat difficult to determine.

When our Federal Constitution was adopted, the knowledge of a federative system, upon its present plan, was new, and existed merely in theory. The objects, however, intended to be effected by its adoption, are clearly and distinctly set forth in its preamble. They are “to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence,

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same paragraph, in such manner as to render their meaning doubtful, especially in the minds of those who entertain a strong partiality for the powers of the State governments. The powers of this Government, which arise from the operation of common law, are still more indefinite, and, in the minds of many, difficult to comprehend. Perhaps, sir, generally speaking, it would not be too much to say, that it must remain for that good sense which is the offspring of experience and mature deliberation, more than to specific definitions of powers as set forth in that instrument, to ascertain precisely what powers the General Government ought to possess, and what the States ought, individually, to retain. In forming that instrument, no doubt, sir, such powers, if not all necessary powers, were intended to be given to this Government, as should be adequate to all the purposes of national sovereignty; that it was not, for want of these essentials, to hobble on crutches through an imperfect state of existence to premature decay; in short, that it, being like the State governments, an emanation from the people, should be so far self-existent as to depend for its support on that power only, the collected power of the people, which first ushered it into existence. In the federative system, which I esteem the perfection of the science of government, the rule to be observed in the distribution of its powers, between the Confederate States and the Federal head, is, as I conceive, simple and plain. It is this: Can any particular power, which is about to be vested somewhere, be exercised in local and separate districts or States, consistently with the safety and good of the whole? If it can, it ought of course to be exercised by the respective State governments. All other powers, which cannot be thus confided, consistently with the safety and good of the whole, ought to belong to the General Government.

According to this rule, it will be seen that the powers which belong to the States are much the most numerous, and by far the most important in securing the rights and privileges of the citizen.

I am not contending that the Federal Constitution is exactly conformable to this rule; but it does not, however, essentially vary from it. There are, as I conceive, two or three additional powers which ought to be incorporated in that instrument, to wit, the powers to provide for a general system of education, and to make canals and roads; and it contains at least one power, the "power to establish an uniform system of bankruptcy," which, as experience has evinced, ought to belong to the States. But, sir, the power now under consideration, the establishment of a banking system, I am fully convinced is improperly

contained in the Constitution, into operation." Among those enumerated powers are to be found, powers to raise revenue, to borrow money, to regulate commerce, and to provide for the general welfare. Now, sir, such a bank as is about to be made or re-established, by the operation of the bill before us, is, in my mind, a "necessary" thing, to enable this Government to carry each of the foregoing powers into effect. I lay particular stress upon the word "necessary," because gentlemen who oppose this bill have rested much of their arguments upon it.

It is "necessary" for raising revenue.

There is generally a profit of about three or four per cent. derived to the owners of bank capital, beyond what they could obtain for the use of their money, by lending it out at legal interest. This being a benefit, which can only be secured to them through the interference and protection of Government, it is but just that they should pay the Government something in return for the favor thus conferred; and the bill before us contains a provision to this effect. Twelve hundred and fifty thousand dollars is the sum contemplated as the least which ought to be accepted by Government, for a mere renewal of the charter, with its present capital, for the ensuing twenty years. By passing this law, therefore, we shall derive to the Government that amount of revenue, which in these times, is, in my mind, no contemptible thing. If the capital of the bank be eventually enlarged to thirty millions, we shall derive at least four millions of revenue from it, in addition to some interest which will at times become due on deposits which may be made in the bank. Thus the passage of this bill becomes a means of raising revenue.

It is "necessary" for the purpose of borrowing money.

Governments, like individuals, in unforeseen emergencies, must frequently experience very pressing occasions for more money than they have at command, and, to supply this deficiency, must resort to borrowing of others. A prudent Government, therefore, like a prudent individual, ought to have the means of borrowing made as certain as possible, in order to avoid the derangement or distress which may ensue, in consequence of being unable suddenly to procure a loan. The passing of this bill goes to effect this desirable object, as it contains a provision for borrowing, with certainty, as large a sum as this Government will probably at any time suddenly stand in need of. It is, therefore, in that point of view, very "necessary," and, in all ordinary cases, a great convenience, for the purpose of enabling this Government to borrow money.

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but, if you can carry something in your pocket, something which represents this sum, the inconvenience is at once removed. Yet, this representative must be such as will be received as such in every part of the country, or else it fails of producing most of its beneficial effects. A man residing in New England has occasion to go to Natchez to purchase \$20,000 worth of cotton; but the bank bills of his own State will not pass there; to carry hard money is incurring a great risk, and, at the same time, expensive in transportation; hence, it becomes "necessary" to provide a representative of hard money, which will be received as such in every part of the country; and that can only be done by the establishment of a bank, whose bills will have this general currency. Thus, the passage of this bill, or something similar, is "necessary" for the purpose of regulating commerce.

It is "necessary" for the purpose of promoting the general welfare.

This expression is certainly very broad, and seems, at first view, to include a good deal. For this reason, many well-meaning politicians have been startled at the idea of a delegation of powers so indefinite, and so comprehensive. I imagine, however, that the expression is not pregnant with any mischief or danger. It certainly would not be "promoting the general welfare" to place any power in the hands of this Government, which could as safely, and as consistently with the good of the whole, be exercised by the respective States. It would be upsetting the first and leading principle of a confederated Republican Government. If we, therefore, invariably adhere to this leading principle, we shall find the expression not only harmless, but very proper to be placed in the Constitution. What I have already said of this bill being necessary for the purpose of raising revenue, for borrowing money, and for regulating commerce, is perhaps all that is necessary to be said to show that it tends "to promote the general welfare," because, in this case, the one is necessarily included in the others.

Permit me now further to add, sir, that this bank and its branches, are also essentially "necessary" for the collection of your revenue, for its safe-keeping, and for the purpose of transmitting it from one part of the Union to another, as occasion may frequently require.

We are, indeed, told, sir, that our revenue can as well be collected by, and deposited in, the State banks. What! all the revenue collected in any one State to be deposited in one State bank? No, we are told, we will put five or six hundred thousand dollars in one bank, as much more in another,

vaults? No; they contemplate nothing of the kind. It would be a bribe, we are told, sir! Besides, it is even said by some, that three or four million dollars is but a paltry sum, unworthy the notice of this Government! Can you contrive any method to compel the directors of such selected banks to render you, at stated times, a true statement of their situation—of their discounts—of the sums due them—of their deposits, in order that you may be convinced that it is safe to trust so much money with them? No. Suppose you want to borrow money—how will you manage matters then? Why, we will borrow a hundred thousand dollars of one bank, a like sum of another, just as a needy man borrows one dollar of one man, two dollars of another, and so on, until his wants are satisfied. Better still—this is really excellent! Well, suppose you wish and have made out to borrow as much, as you have to send the money to a different and perhaps distant quarter of the Union, are you certain you can make it pass current there? Will not those banks, which have not been so fortunate as to have received a share of Governmental favors, take measures for counteracting any such currency? And would it be just to pay off a poor old soldier his hard-earned pittance, in bills on which he would probably be obliged to make a discount of five, ten, or perhaps twenty per cent. before he could get them off his hands?

Gentlemen, sir, who oppose this bill, have got into a dilemma, in opposing it on the ground that the State banks can be made to answer the purposes of this Government, as they thereby virtually admit that banks of some kind are "necessary" in managing its concerns. The point of difference, then, becomes resolved into this: what sort of banks are necessary? We all understand that the stockholders of State banks would be glad of a slice of "the loaves and fishes." My neighbor, who keeps a horse to let, might say to me, it is not "necessary" that you should keep a horse, for I keep one which I should be glad to have you make use of. In such case, the arrogance of my neighbor would be so manifest that all would commend me in telling him that his horse was but a sorry animal, which he might keep to himself; and that I knew best what kind of horse suited my purpose. Sir, State banks are the creatures of States; this Government cannot control them, and therefore ought to have no concern with them. If, however, particular States will be so arrogant as to insist that this Government shall make use of their creatures, why can they not, on the same principle, go a little further, and say to this Government, "here is a collector, a

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suggested, and, in some measure, urged, through the influence of some of those banks. I see runners out from different quarters, endeavoring to convert people to this new doctrine. I see presses prostituted to the purpose of endeavoring to raise a popular ferment against the passage of this bill, or any other of a similar nature; but that any disinterested man can seriously think that this miserable quackery, with which it is proposed to administer to the wants of the body politic, is really worth a moment's attention, is more than I am willing to believe. Should it, however, prove true that a measure which, during the last session, could have been carried by a majority of nearly thirty, shall now be lost, although I shall deplore that instability of opinion which shall have produced this sudden change, or that dereliction of independence which should yield to temporary clamors, artificially raised, I shall, nevertheless, console myself with the conviction that time and experience will correct the error, and that the merits of this measure will hereafter be decided upon with more correctness of judgment.

But, sir, I have thus far merely shown that this bank, or some other of a similar nature, is "necessary," in several distinct points of view, to the purposes for which this Government was established. I have not however shown, nor can I show, that it is indispensably "necessary." But here, sir, lies the error of those who have contended against the constitutionality of the measure. It will be recollected, sir, that when this bank was first established, those who opposed it on Constitutional grounds, (and for their opinions I have the highest respect,) contended, that although the measure might be useful, fit, and expedient, yet if it was not indispensably "necessary," it must of course be unconstitutional. Let any one examine the debates of that time, and they will perceive that this was the strong ground of opposition that was then taken, and the same ground is now taken, but to this I reply—

If the words of the Constitution were, that "Congress shall have power to make all such laws only as are indispensably necessary to carry the foregoing powers into effect," then, indeed, the opponents of this bill would, on Constitutional grounds, be correct; because, that although the Bank of the United States, or a National Bank, if you please, may be a "necessary" appendage to this Government, still are neither of them indispensably "necessary"—this Government can do without them in the same manner that a farmer can do without a hoe, by substituting a spade, or that a carpenter can do without

the Constitution were, "Congress shall have power to make all laws which shall be needful, fit, and proper, for the purpose of carrying the foregoing powers into effect," the difficulty would probably vanish at once; as I trust we could soon determine whether a Bank of the United States or a National Bank, is a needful, fit, and proper appendage to this Government. But, sir, we have first given to a harmless expression a most formidable meaning; we have made the word necessary mean indispensably necessary. And, having thus raised a mountain out of a molehill, we are now about to resolve, very wisely, no doubt, that we cannot get over the mountain.

If I were to agree to provide a farmer with such tools and implements as are necessary for carrying on the business of farming, I should suppose that I was bound to provide all such tools and implements as are commonly used in that business. I could not say to him, here is a sled, which must answer the treble purpose of sled, cart, and wagon; or here is a spade, which must answer both for digging and hoeing. I could not avoid my engagement by telling him the cart, the wagon, and the hoe, were not indispensably necessary; because he could make the sled answer the place of the two former, and the spade the place of the latter. No, sir, this would not be complying with the terms of my engagement. Now, sir, it is a poor rule that ought not to work both ways alike. The people of the United States have granted to Congress certain specified powers, and have further granted the means, that is to say, the necessary tools and implements for carrying those powers into effect. By this grant, then, it becomes proper for us to make use of all or any of the means that are needful, fit, and proper for effecting these purposes; but, sir, we are about to determine that we will not make use of some of them as long as we can possibly do without them; we will reject the cart, and the wagon, because they are not indispensably necessary; we will mount ourselves upon the sled! and thus we will heavily drag along the concerns of this Government.

Sir, in the estimation of some this may be wisdom—it may be patriotism; but, in my estimation, it is neither; it is folly, it is destructive to the best interests of this country.

I shall here further observe, that if we are determined to test the constitutionality of all laws which are passed by Congress, by their being indispensably necessary, we shall find that a great many unconstitutional laws have been passed. During the last session, we passed a law for cre-

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narrow construction of that part of the Constitution is to prevail; these pillars of costly workmanship which surround us, and the elegant dome which they support, were made in conformity to the laws passed for the purpose. And are they indispensably necessary? Could we not do the business of this nation in a room that should not have cost one-tenth of the money that has been expended on this? Instead of these easy and expensive seats, with which every member is accommodated, could we not sit on such as that on which "the immortal Alfred sat?" Again, sir, laws providing for the erection of light-houses, and for the establishment of a military academy, have been passed by Congress. These laws must spring out of the power, by the Constitution, to "promote the general welfare;" for, to no other power given by the Constitution are they properly referable. Erecting light-houses is not "regulating commerce," properly and strictly speaking; neither is teaching military service to those who are not soldiers, "raising and supporting armies;" but each are means of "promoting the general welfare," by the usefulness of the former to commercial business, and the latter to armies, when they shall have been raised. But are either of these indispensably necessary? Certainly not. But, perhaps, I have said enough on this subject. Believing, as I do, that the General Government ought to possess all such powers as necessarily concern the best interest and good of the whole, and believing, too, that the Constitution, however indefinite it may in some instances be found, was intended to contain a grant of such powers, with the exceptions which I have before mentioned, it must remain for others, and not for me, to gauge and limit it to such narrow constructions as are equally incompatible with the purposes of national sovereignty, and the obvious meaning of words in our mother tongue.

There can be no doubt, sir, that our written constitutions are of excellent use in designating the form and drawing the outlines of government, in such manner as renders them but little liable to capricious variations. While in this way they serve as durable landmarks to those in power, they will also be of essential benefit to posterity, if they should incline to a degeneracy of political principles, by exciting their emulation, in holding up to view those principles by which their nobler ancestors were governed. Having been the originals, however, in the adoption of written constitutions of government, we have made them quite a hobby-horse, and seem to imagine them adequate to all the purposes of preserving our liberties forever. For myself I am

principles by which powers must necessarily be regulated in a free confederated Republic, if regulated as they ought to be; and having ascertained this point, having ascertained what powers necessarily concern the whole united, and what powers may be locally exercised without injury or danger to the whole, we can then easily perceive what ought to be, and what is the real meaning and intent of words in our written constitutions.

And, above all, let us not be terrified by those who, for want of better arguments, appeal to our fears; who tell us of the danger there is in adopting this or that construction, or this or that measure; that if you admit of powers by implication, you open a wide vortex, in which will certainly be swallowed up all the powers of the States; or that if you adopt one measure, you will, therefore, adopt another, and another, until you have absorbed all powers whatever. Sir, this kind of argument, if argument it may be called, has become stale with me—it has no weight on my mind—and for this simple reason, that demonstration, and prophesying, are two very different things. Whatever may have been the case in ancient times, I have always observed in my own day that weak arguments, and a spirit for prophesying, are usually coupled together. In my mind there is more danger that the State Governments may, from the selfish motives or the ambitious views of some, eventually reduce this Government to a mere skeleton of power, than that this is ever essentially to weaken the powers of the States. I trust, however, that the danger of the one absorbing the other is not very great on either side. As all our Governments emanate from the same source, the people, this for national, and the others for local purposes, as long as we retain our present equality of condition, and of rights, and our consequent independence of sentiment, I should suppose that even a sense of convenience alone would always correctly dictate where the different governmental powers ought to be placed. The danger to civil liberty, therefore, lies, not in the formation of our different governments, but in the foundations of civil society. If our descendants should lose sight of those principles of civil liberty which we have learned; or, if the condition of men should become so unequal, as to produce a state of abject dependence of the many upon the few; then, and I trust not till then, will our present civil institutions be in danger of being overturned.

As I proceed I shall here briefly notice an amendment to the Constitution, under which my worthy colleague, (Mr. PORTER,) and an honorable gentleman from Pennsylvania, (Mr. SEY-

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goes to render the passage of this bill unconstitutional, I shall merely observe, that—

"Optics sharp it needs, I ween;
"To see what is not to be seen."

If anything be absolutely passed from one to another by grant, as in the case before us, the grantor becomes divested of that thing, and it becomes immediately vested in the grantee. All then that is necessary, in the present case, is first to ascertain what powers are granted by the Constitution; for it is very certain that what are not granted are still vested in the grantor. A has granted to B certain things; now, says A to B, if my hat is not included in this grant, the hat shall still be mine. Agreed, says B. This is a very plain case, sir, and how such intelligent gentlemen could think of intrenching themselves behind this amendatory article, which in fact means nothing, is really more than I conceive.

But my worthy colleague, to whom I have just referred, has taken another ground, on which he has attempted to rest much of his argument against the constitutionality of this bill, and which is, therefore, worthy of some notice: that is, that by the Constitution this Government derives no powers by implication. Sir, this appears to me the most absurd doctrine that I have yet heard advanced on this subject. It would be a waste of time to go into lengthy details to show the absurdity of this proposition; but, let me ask that gentleman, wherein could have existed the necessity of those amendments to the Constitution, which are almost wholly restrictive, if it was not admitted that, without these amendments, Congress would have had an uncontrolled power to legislate on the subjects to which they refer? and yet many of these subjects of legislation are not even mentioned in the Constitution. The first of these restrictive amendments is, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or of the right of the people peaceably to assemble, and to petition Government for a redress of grievances." Now the Constitution is silent on all these subjects; yet, if Congress possess no powers to legislate upon them, where could have existed the necessity of restricting them by this amendment, to certain bounds, if they should at any time deem it proper to make them the subjects of legislation? Again, sir, the Constitution makes provision for the establishment of a judiciary, but says nothing about the system of law, whether the civil or common law, by which the courts, thus established, are to be regulated.

best means for carrying other governmental powers into effect.

There is one other ground which my worthy colleague has taken, in his endeavor to show the unconstitutionality of this bill, which I also deem worthy of some slight notice: That is, that the constituted powers of this Government are mere delegated powers, not from the sovereign people, but from the States, as States! And how does he prove this strange doctrine? Why, says he, if the States should neglect or refuse to elect the Senators, which compose one branch of this Legislature, this Government would be dissolved. Therefore, this Government depends upon the will of the States for its organization; and, therefore, it is a creature of the States! Really, sir, this is very profound reasoning! Let us just look at the other side of the question, sir, and we shall then be enabled to see what a very convenient method of reasoning this is. I am going to prove, in the same way, the very reverse of this proposition; that is, that the constituted powers of this Government are mere delegations of powers, not from the States, as States, but from the sovereign people. I prove it thus, sir: If the sovereign people should neglect or refuse to elect the representatives, which compose one branch of this Legislature, this Government would be dissolved; therefore, this Government depends upon the will of the people for its organization; and, therefore, it is a creature of the people. In the same way, sir, you can prove that the State governments owe their existence to the will of the returning officers of the different counties; because, if those officers should neglect or refuse to make the returns of the elections, there could be no State legislatures, and thus the State governments would be dissolved. Therefore, a State government depends upon the will of the returning officers; and, therefore, it is a creature of those officers.

Admitting, for argument sake, that we could not go to elections unless our horses would carry us there, we can, in the same manner, prove that all our governments are creatures of those animals; because if our horses should refuse to carry us to the election polls, there could be no elections; if there were no elections, there could be no representatives chosen; and, if none were chosen, there could be no legislatures; and thus the governments would be dissolved. Therefore, all governments would depend upon the will of our horses; and, therefore, they would be mere creatures of those animals.

We are very apt to run a wild-goose chase, sir, when we attempt to demonstrate, by reasoning,

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ascertain the fact precisely. Its preamble determines the point. The words of that preamble are, "We, the people of the United States," &c. Not "We, the United States, as States," &c.

But, sir, even if this Government was a creature of the States, as States, what bearing could it have on the question before us? Ought we on that account to give to words in that Constitution a different meaning? Would the words, "Congress shall have power to make all laws which are necessary and proper to carry the foregoing powers into effect," be liable to different interpretations, according as it should be ascertained that this Government is a creature of the States, as States, or of the people? Certainly not.

I have thought proper, thus far, to notice some of the principal grounds on which my worthy colleague has rested his arguments against the constitutionality of this bill, because if these grounds are not tenable, his arguments must fall of course; and thus would be justified the assertion of the honorable gentleman from Massachusetts, (Mr. PICKMAN,) that the whole argument, taken together, is "an ingenious piece of sophistry." It is so, indeed, and it is nothing more. Another inducement which I have had for this is, to enable myself with propriety, and at the same time with pleasure, to observe, that the grounds taken by my colleague have been the principal reliance of the opponents of this bill; as many gentlemen on that side have, probably with a very becoming diffidence in the strength of their own views of the subject, pointed to him as one among them whom they seemed to imagine had sustained the argument; a tribute of applause which I think those gentlemen were bound in conscience thus justly to bestow.

Having, as I trust, obviated the Constitutional difficulties which have been urged against the passage of this bill, it remains to say something about its merits; and in doing this, I shall be as concise as possible.

It would be arrogance in me, sir, to go into a lengthy and minute detail of the operations of banking, as it is proper to presume that every member has made himself acquainted with the subject. I might, however, be permitted generally to observe, that from the constant depreciation of gold and silver money for centuries past, and the probability of their still continuing to depreciate, the necessity of a well established banking system becomes every day more and more obvious. Ten thousand dollars, which, in these days, is but a moderate fortune, is nearly a cart-load in silver. Thirty years ago half that sum would purchase as much as the whole will

the promissory notes, or other liens on property, which are deposited there. This, sir, is the only remedy of which I can have any conception; and, therefore, it appears to me highly important that the best possible plan of banking should be devised and adopted by this Government.

It has been my opinion, sir, that, instead of the present United States' Bank, a National Bank ought to be established upon a general plan, and be so organized as to invite, and eventually draw into it, much of the other banking capitals, in order that the business of banking might be reduced more to one entire system; that it should not be under the control of Government, but, nevertheless, under their inspection; that, for this purpose, Government should appoint a small proportion of the directors in every branch, and in the mother bank, whose business it should be to render, at proper intervals, stated accounts of its debts, discounts, and deposits, in order that it should always appear that it was properly conducted, and kept within due bounds; and, finally, that Government should share such part of the profits of the establishment as might be deemed reasonable. Proper provisions ought also to be made to prevent its being rendered subservient to political or party purposes, which I imagine would be no very difficult thing.

The principal advantages to be derived from a general system of this kind, in addition to some which I have before mentioned, would be, first, its affording a permanent revenue; secondly, its greater security and stability; and, thirdly, the uniformity of its currency, and the better means of providing against losses by counterfeiting.

I am, however, sensible, sir, of the great difficulty of convincing every one, by whose vote it must pass, of the practicability of any new plan of this kind, however perfect and well matured it might be when offered. I am also sensible of the inconvenience of pulling down one system in order to build up another, and of the distress and ruin of individuals it would occasion if it should be done suddenly. I am, therefore, willing to adopt such plan, as, if not the best, shall be thought by a majority the most expedient at present, and leave to futurity the building up of a different system. I shall, therefore, vote for a mere re-incorporation of the present bank, if nothing better can at present be had; and if anything can be added to it, by way of improvement, so as to render it less exceptionable, I will also vote for that.

Perhaps, sir, it might be as well to re-incorporate the present bank for eight or ten years only, and, in the meantime, be making provision for building up another upon a more approved plan.

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in danger of becoming such nuisances; because they are but too apt, in the first instance, to be established, and sometimes managed, upon improper, or even dishonest principles. In some instances they have proved mischievous, from the mere ignorance of those by whom they have been managed, of the only true principles on which banks can be safely conducted.

When properly organized, the great and most essential benefit to be derived, consists in the saving of labor, if I may so express myself, in procuring the requisite quantity of gold and silver, to represent all the various articles of wealth in a nation. Suppose, for instance, that a million of inhabitants were to be placed by themselves, without any gold and silver among them, but at the same time with a sufficiency of all the other articles which constitute wealth, they would then require, say five million of dollars for a circulating medium to represent those articles, in order to be enabled to carry on commerce or exchange among themselves; of course five millions worth of their articles of wealth, or, in other words, five millions worth of their labor, must be sent abroad to purchase and bring back this necessary quantity of gold and silver. Now, by the establishment of a banking system, on proper principles, one-half of this hard money would answer their purpose, and thus they would save to themselves two and a half millions worth of their labor, or its products, which they could apply to other purposes.

Now, the territory of the United States will, according to their present ratio of increasing population, in the course of a century, be filled with a hundred million of inhabitants. They will therefore require, say five hundred million of dollars for the necessary circulating medium; at present there is, say forty millions in circulation; of course four hundred and sixty millions worth of the products of their labor must, in the course of a century, go abroad to bring back its value in gold and silver to provide this necessary circulating medium. But if we can establish and perpetuate a safe and durable banking system, only one half of this value in the products of labor need go abroad to bring back the requisite quantity of gold and silver; and thus a gain is, in that time, made to the amount of two hundred and forty millions worth of labor; which would probably be nearly sufficient to make all the canals that may become requisite within our territory. I have made this statement in general terms to show how immensely important it must be to the United States to establish a banking system upon the most durable and best possible plan.

in our Northern towns, at the expense of the Southern States; because, if those States, particularly Virginia, had exerted themselves in encouraging commerce to be carried on within their own limits, much of the wealth so rapidly acquired in commercial pursuits, which is now to be found in those towns, might have been amassed in those States. But does that honorable gentleman really believe that, by pulling down this bank, there will be less banking business done in the United States? No, sir, the capital that is now employed in this bank will soon find its way into the State banks. Permit me also to say, sir, that the notion of trying to make ourselves less commercial is idle and visionary—it is the “stuff that dreams are made of.” I admit, sir, that, for the purpose of rendering ourselves less dependent on foreign nations, it might be well to encourage manufactures to a certain degree; but, suppose we should, would we be essentially the less commercial on that account? I trust not. Commerce seems to be congenial to the dispositions of a large portion of our countrymen, and it is vain to attempt to change their habits and pursuits. Indeed, sir, if we will but look at the nations of the world, both of ancient and modern days, we shall find that those who have been most commercial, have ever been the most active, enterprising, intelligent, and free. I consider commerce as one of the great levers by which the world has been raised from darkness into light—from barbarism into civilization and refinement.

An honorable gentleman from Maryland (Mr. McKim) has given us a statement of the situation of the Bank of the United States, which I will just notice. That gentleman made this bank indebted to somebody, I don't know whom, in the sum of about ten million of dollars.

The gentleman also informed us that he had been a bank director in his time—of course, that he must understand the business.

Presently, however, the worthy, intelligent gentleman began to say something about notes deposited in the bank for discount, to the amount of fifteen million dollars: But these notes, he strenuously contended, were not due to the bank! So much knowledge must, I suppose, have resulted from having been a bank director! I think the gentleman afterward admitted that, if these notes were really due to the bank, it would then, indeed, possess the means of producing a general state of distress, if we should compel it suddenly to wind up its concerns. Exactly so, sir; so far the gentleman was correct.

But, with respect, to the rest of this statement, I shall merely observe that, if a gentleman could

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their power to injure the best interests of this country.

On the first impression, it struck me that this might possibly be the case; but, on more mature reflection, I cannot see how this could be done, even if those capitalists were so base, and so regardless of their own interests, as to attempt anything of the kind. They have no direct control over the concerns of the bank; it is managed by directors who are citizens of the United States. If any one can, however, point out any effectual method which could be taken by these capitalists, and which it is even remotely probable would be taken, I will then admit that this may be a greater or less objection, not against the re-incorporation of the bank, but against the policy of suffering European capitalists to hold much property in the bank.

Another objection, which has been urged, is that this bank is under the management of those who are, for the most part, opposed in political sentiment to the present Administration.

If I believed that those who manage the concerns of this bank could wield it as a political engine, as was formerly the case, I should be induced to vote against the bill entirely. But, sir, the fact is, this is not the case at present, nor do I conceive it can ever be the case again. So many State banks have been created, that men of all political descriptions can now be accommodated at one bank, or at another; so that the idea of bestowing bank favors, as a reward for political professions, has been long since abandoned. As the English mastiff has, therefore, lost his teeth, he can no longer bite those who are not of his household—and, knowing this, his fierceness has abated—he has become more civil to strangers, and more fit and willing to be made subservient to the wishes of all.

Sir, there is another string, which is yet necessary to be touched, and I shall touch it but lightly, for it is a tender one: It is the distress and ruin which must ensue upon the vote that is about to be given, if that vote shall, as I believe it will, be against the re-incorporation of this bank, in some shape or other. From this distress, sir, probably all of us will be exempt. The storm will pass over us, and we shall only hear it at a distance; yet the individual on whom it shall most heavily fall, will not, on that account, feel it the less sensibly. When I speak of individuals, I mean to express myself emphatically. There are incorporated individuals whose favorite dwellings may yet, by this vote, be shook to pieces over their heads; but as far as any of these may have been instrumental in producing the present state of things, so far will their labors have obtained

draw a picture of this kind of distress; but this is not the only dark side which might be presented—its demoralizing effects ought also to be noticed. By too frequently, and, in this case I may add, wantonly, deranging and prostrating the affairs of individuals, particularly of mercantile men, you naturally encourage in them, from mere motive of self-defence, principles which tend to render them a set of sharpers.

I have heretofore mentioned that there were, at the last session, nearly thirty of a majority for re-incorporating this bank; and among those were two of my honorable colleagues, whom I now find on the other side of the question. It would now seem that there is, probably, a majority against it. How does this happen? I can account for it in part, but not wholly. The Legislatures of some States have undertaken to "instruct" or "request" their several delegations to vote according to their views of the subject. It is generally understood, I believe, sir, that those who may not think proper to listen to this monitory warning, are to be denounced, cast off, and thrown—not into a den of lions—for those animals, though fierce, are somewhat noble in their nature—but into a den with one or two ugly wild beasts—exotics, I believe, sir, who seem to be kept on account of the peculiar facility they possess of besmirching others with their own filth. But, I would ask those who have thus undertaken to instruct and direct members here, how, in God's name, did they become invested with this controlling power? Were they elected to manage the affairs of this Government? As well might the State delegations to this Government assume to themselves the right of instructing and directing their several State Legislatures how they should act. No dictatorship in this free country, sir! I, for one, protest against it. I hold myself responsible to my constituents only, for the vote I may give on any question; and that vote, which my conscience tells me I ought to give, shall never be controlled by the imposing frowns of any man or set of men whatever.

Sir, if this doctrine is to prevail, that the State delegations are to direct us how we must act, then we shall be in danger of becoming a fallen people. It will go to subvert the purposes for which this Government was established. It will be reducing us to a state which may even prove worse than the old Confederation; for, even under that system of Government, the State Legislatures did not attempt to dictate to Congress, but, on the contrary, Congress used to recommend measures for them to adopt.

My idea, sir, of the best method of getting along with our various concerns, is, for each to

posed to putting down this bank suddenly, and unexpectedly, and in no way whatever, unless it be done gradually, while another, less exceptionable, is rearing up to fill its place. Permit me to add, sir, that it requires much less capacity to pull down than to build up; that I am afraid that some who never can distinguish themselves in the one way, may, in their love of fame, aim at the acquirement of some distinction in the other. I confess I have some little fears on this subject; for I am fully convinced, sir, that if ever this Government shall be prostrated, which God forbid! the work will be accomplished not by Romans, but by the hands of such as those under which Rome sunk and perished.

Mr. TALLMADGE said, although the bill now before the House had undergone a pretty ample discussion, and although he felt almost disqualified from speaking distinctly, from the pressure of a severe cold, yet he could not reconcile it to his sense of duty to permit the question to be taken on the present bill, without submitting a few remarks to the consideration of the House. In doing this, he would endeavor to place the question on its proper basis, divested of any extraneous considerations, by the admission of which some gentlemen appeared to have lost sight of the true merits of the question.

Before I proceed to discuss the bill now before the House (said Mr. T.) I take occasion to remark, some gentleman appear to entertain very limited, and, in my judgment, very incorrect ideas of banking institutions. From some observations which I have listened to, I should suppose that a bank was considered nothing better than a broker's office, in which Jews and money brokers meet to prey upon the community. Others have compared the institution to Pandora's box, from which have issued the principal evils which have afflicted this country. Many similar remarks, equally crude and irrelevant, have been submitted by some gentlemen who wish the dissolution of the Bank of the United States. For the information of such gentlemen, I take occasion to remark, that the use of banks by the principal commercial nations in the civilized world, stamps a value upon the institution, too broad and too well attested, to be questioned at this time.

The Bank of the United States, whose corporate existence we are called on to continue, seems to have been instituted principally for two purposes, (viz.) that of discount and deposit. Under the first, loans and facilities are obtained both by the Government and individuals; and by the last, corporate bodies and individuals are enabled to lodge their money, or other precious treasures, in the vaults of the bank, for safe-keeping, to be with-

ica, which was incorporated in the year 1780, served greatly to invigorate public credit, and unquestionably shed a salutary influence on the measures of that eventful epoch in our Revolution. But I will not enlarge on this point, presuming that few can be found within the sound of my voice, who will question the utility of the Bank of the United States.

The remarks which I propose to submit, will be comprised under the two following general heads:

1. Has Congress a Constitutional power to renew the present charter of the Bank of the United States?

2. Is it expedient, at this time, to permit its charter to expire?

That the field of controversy may be narrowed as much as possible, it may not be improper to consider the points in which all agree; and also the most prominent subjects of debate. I therefore consider the three following points as agreed to by the friends as well as the enemies of the present bill.

1. That Congress have the Constitutional power to make all laws necessary to carry into execution the Constitution of the United States.

2. That banks are among the necessary means to enable the Government to carry on its fiscal arrangements.

3. That no positive injustice can be chargeable upon the Government even if it should refuse to renew the charter of the bank, inasmuch as it will expire by its own limitation.

The points in controversy between us, are the three following:

1. The opposers of the bill on your table assert, that, to renew the charter of the Bank of the United States, Congress must assume a power not warranted by the Constitution.

To this doctrine I enter my solemn protest.

2. They further assert that the State banks are competent to answer all the demands of the General Government in their fiscal operations.

This doctrine I can by no means admit.

3. It has also been asserted, that the Bank of the United States originated with a party; that it has been supported by a party; and must now be decided on party principles.

The two first parts of this proposition I deny, but I fear I shall be constrained to submit to the last.

I come now to the consideration of the Constitutional question, and inasmuch as it embraces consequences very momentous, both to the General Government and to our individual citizens, I hope this honorable House will hear me with candor.

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may be shown in numberless instances, and from every day's experience in legislation. As a familiar instance, I beg leave to inquire, by what express authority in the Constitution has the Government any power to establish custom-houses, or to appoint officers for the collection of the revenue? And yet the orderly management of the Treasury Department so imperiously demands the exercise of this power, that no doubt has ever been entertained as to its constitutionality.

In defining the powers of Congress, there seems to be a threefold rule given in the Constitution.

1. Positive as to the power granted.
2. Negative on the General Government.
3. Negative on the States.

If gentlemen will turn to the first article of the Constitution, under the 8th section, they will find the powers enumerated which Congress may exercise. Inasmuch as Congress has the power to lay and collect taxes, duties, imposts and excises, so it is also, *provided*, "That they may make all laws which may be necessary and proper for carrying into execution the foregoing powers," &c. Here is the basis on which I am willing to rest the argument that the Legislature of the United States has the right to incorporate a bank for the purpose of collecting, in the most safe and facile manner, the revenues of the country, as well as of disbursing the same with the least expense and inconvenience to the Government, in any part of the United States where the same should be needful. If it should be conceded, that banking institutions are necessary to the convenient and orderly management of our fiscal concerns, (and I flatter myself this will not be contested,) then shall I consider the Constitutional question nearly settled, unless it can be proved that State banks can be a safe substitute for the Bank of the United States. On this point I shall have occasion to remark hereafter.

In the 9th section, under the 1st article of the Constitution, the exercise of certain powers is prohibited to the General Government, but nothing can there be found touching the present question. It must therefore be included in the amendment before quoted, the explanation already given of which I hope may be satisfactory to this House.

In the 10th section of the same article, the States are prohibited from exercising certain powers. Among other things they are not permitted "to coin money; emit bills of credit; make anything but gold and silver a tender in payment of debts," &c. Although I am not disposed, in this place, to contest the right claimed by the several States to incorporate banks *ad libitum*, yet I have no hesitation in saying that there appears to be

constitutionally authorize their emission; and as they are the best representative of gold and silver, Congress alone has the power under the Constitution to regulate the same.

In the modern rage for putting down former institutions, we seem to arrogate to ourselves more wisdom than our predecessors possessed. In the preamble to the act establishing the Bank of the United States, among other reasons assigned for the passage of the law, it was deemed that such an institution "would be conducive to the successful conducting of the national finances—would tend to give facility to the obtaining of loans for the use of the Government, on sudden emergencies—and would be productive of considerable advantages to trade and industry in general."

If such an institution was necessary for the operation of the Government then, it is not easy to conceive that it can be less useful now; nor can it be comprehended why a measure should be deemed unconstitutional in the year 1811, which in the year 1791 was pronounced by some of the first sages of our country, with WASHINGTON at their head, not only very beneficial to the Government, but strictly Constitutional. This argument derives no inconsiderable weight from the circumstance, that, under all the successive Administrations of our Government, acts have been passed confirmatory of this principle. The law enacted for the punishment of those who should counterfeit the bills issued by this bank, sanctions the original law; and the laws of the different States, to the same effect, prove that they had no scruples on this point. The loans which have been repeatedly made of this bank, under the sanction of law, greatly corroborate the opinion that the charter was not deemed unconstitutional; and I presume most of the gentlemen who now appear so scrupulous about violating the Constitution, actually voted for the passage of the law of the last session, authorizing the bank to loan several millions of dollars to the Government. Now, if the original law was unconstitutional, the charter is void, and all the operations of the bank must have been illegal. On the same principle, every subsequent law relative to that incorporation must have partaken of its original depravity, being equally unconstitutional. In the year 1804, a law was passed authorizing the bank to establish offices of discount and deposit in the Territories of the United States; under which law the bank was established at New Orleans for the accommodation of the Government, and yet no Constitutional objection was made to this measure, although the Sage of Monticello was then President of the United States.

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among the means necessary for the "successful conducting of the national finances." My own judgment has long been settled on the Constitutional question, and I cannot but hope that a candid consideration of the views in which I have presented the subject to the House, will induce some gentlemen to hesitate, who may have heretofore been fixed in opposition to this bill.

I come now to the consideration of the second general head which I proposed to discuss, viz: the inexpediency of permitting the present charter to expire. In doing this, I will endeavor briefly to state some of the consequences which will probably result from such a measure.

1. A general distrust of bank credit must be the inevitable consequence. As soon as the bills issued from the Bank of the United States shall cease to circulate, the holders of other bank paper will become suspicious of their ultimate payment, and of course will either refuse to receive them in payment of debts, or will send them to their proper banks to receive specie in exchange for them. As evidence of this, I will state to the House that the mere conjecture that such an event may happen, has already begun the call for gold and silver in exchange for bank bills.

2. Such a measure would be distressing, if not destructive to State banks. To prove the truth of this position, I call on gentlemen to examine the report of the Secretary of the Treasury, in which may be seen the amount of notes on hand, issued by the State banks. If these should be presented for payment, nearly the whole of the specie in their vaults would be drawn out, and perhaps some banks might not be able even to meet the demand. The usual export of dollars from this country, for some years past, and the failure of the accustomed imports, have continued greatly to increase this distress.

3. It would be ruinous to individuals. Perhaps a more inauspicious period than the present could not have been selected for the destruction of this moneyed institution. Our mercantile brethren have more than \$20,000,000 locked up at this time in Europe, and unusually large importations of East and West India produce are on hand for exportation. Accommodations must therefore be obtained, or their credit as well as property must be lost. I beg gentlemen to re-examine the Secretary's report, where will be seen the amount of discounts in our principal commercial towns.

I then inquire, Mr. Speaker, whether all the specie in the United States is sufficient to pay up the notes which have been discounted by the Bank

the State banks, being crippled in their operation, will be unable to afford the needed relief.

The bills issued by the Bank of the United States, and now in circulation, exceed five millions of dollars. Let this sum be called out of circulation, and the merchant, the farmer, and the mechanic, will sensibly feel its effects.

4. If this charter should expire, I feel persuaded it must be injurious to the operation of the Government. Of the present regular collection of the revenue I will say nothing, but of the distribution of this money I venture to say that no process through the State banks can be so safe or so expeditious. Suppose that the operations of the Government should require the payment of a million of dollars at New Orleans: Through the agency of the United States' Bank this deposit and payment could be promptly made; but how could this be effected by any State bank? From the very nature of those institutions, the bills issued by the State banks must have a limited circulation, and could not possibly answer on such an emergency. But, if the Government should suffer no inconvenience from the State bank emissions, mercantile men and private citizens must feel the embarrassment very severely. In addition to these considerations, will it be safe for the Government to intrust their funds to moneyed institutions over which they not only have no control, but have not even the power to demand a view of the statement of their business? On this point, I flatter myself there can be but one opinion; and, inasmuch as weekly reports are now made to the Secretary of the Treasury, from the Bank of the United States, the safety of trusting the revenue to this institution, rather than to any other, must be very apparent.

5. It is somewhat questionable, in my mind, whether the honor of the Government will be unimpeachable if the charter of the bank should not be renewed. I have said before, that in point of strict justice, the Government is not bound to re-charter this bank; but, when I recollect that not many years ago the Secretary of the Treasury sold all the bank stock belonging to the United States (being 2,220 shares) to foreigners, at a premium of 45 per cent., I cannot reconcile it to my ideas of honorable conduct to reduce that stock at once to par. By that operation, the Government raised the sum of \$1,287,600—making a net profit to the Treasury of \$399,600. If the average rate of dividends has been about 8½ per cent. on the nominal capital, it is very manifest that the purchasers of this stock of the Government have not received 6 per cent. on their money, and all the advance paid on the principal must be lost.

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ers in our own country to be protected as well as those of our own citizens? Is it not enough that by the act of incorporation foreigners are not eligible as directors to manage the funds of this institution? I know it has been urged that foreign capital brought into this country is injurious to the community. With this opinion I do not accord, more especially when placed under the direction and control of our own citizens. But, say some gentlemen, in case of war this influence might be injurious to our country. I should believe the very reverse would be the fact. If it be true that where a man's treasure is, there will his heart be also, then surely it might be useful for any country to have the funds of its enemies to use and improve in the case of a war. Not only would this serve to keep the true owners of the property from being active against us, but it would also serve as the sinews of war to aid us in the contest. So long as the moneyed capital of our citizens can be better employed, let not the policy of this Government be directed against the introduction of foreign capital into the United States.

I will conclude my remarks on this subject, Mr. Speaker, by calling the attention of this honorable House to a few statements taken from the report of the Secretary of the Treasury, which has been laid on all our tables. From this it appears that the amount of bills and notes discounted, and now on hand, exceeds fourteen millions of dollars; of which Philadelphia owes about \$5,000,000 and New York \$4,000,000. If these sums should be demanded, is it possible to find the gold and silver in our country to pay them up? Certainly not. What is then to be done? Either the Bank of the United States must extend the times of payment, or the State banks must afford their aid. It is questionable how far it would be safe for the bank to proceed in the first case, and in the last—it has been shown, that if the State banks should afford the needed accommodation, their own ruin would be sealed. By a report lately made to the Legislature of Pennsylvania, (which I hold in my hand,) it would seem that the amount of all the specie in their State banks, did not much exceed one million of dollars.

What is the state of the specie capital in the city of New York? If pretty correct information may be relied on, all the State banks in that city cannot produce half a million of dollars. It is then utterly impossible, with all the specie in those two large cities, to pay up the demands of the United States' Bank upon the citizens; and if gentlemen suppose that no distress would arise

the State banks owed the Bank of the United States \$579,653, and in December following, the sum was increased to \$1,546,027. If you add the difference (which is near one million of dollars) to the amount in the vaults of the United States' Bank and its branches in December, the diminution of specie in about eleven months will be found to be about \$2,600,000. This alarming diminution of the precious metals ought to have some weight with this House in deciding on the present question, that the pressure may not be increased upon the community.

Notwithstanding my full conviction that it will be highly impolitic, as well as peculiarly distressing to the people of the United States, to reject the bill now before the House, and thereby permit the charter of the bank to expire, yet I must confess I am not without my fears, that such is to be the fate of this institution. It can never be sufficiently deplored, that the feelings of party should have ever influenced the measures of this Government. When this prevails, we must expect that rash and impolitic measures will be adopted. On the present occasion, a leading member in opposition to this bill (Mr. EPPES) has declared his belief, that the bill now under consideration was purely a party question, and would be decided accordingly. If this is the case, the fate of the bank is fixed; and on this ground alone can I account for that peculiar apathy and unconcern which is exhibited, when the evils to be apprehended from a non-renewal of the charter have been so forcibly exhibited to Congress, in the numerous petitions which have been presented. But when I further reflect, that agents are known to be within these walls, who are already fattening on the prospect that the State banks which they represent are to receive deposits of the Government arising from the collection of the revenue, I fear my feeble attempts to arrest the progress of this desolating spirit will be of no avail.

Mr. GARDENIER spoke against indefinite postponement. At about five o'clock, a motion was made to adjourn, and lost, by yeas and nays—60 to 55.

Several gentlemen rose to speak.

Mr. MACON remonstrated against a night sitting, as a denial to gentlemen of an opportunity of expressing their sentiments, and as derogating, by the confusion always attending such a scene, from the dignity of the House.

Mr. RANDOLPH made a few remarks of the same tenor; reprobated the want of order which appeared to prevail in the House, stated his own

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Mr. MORROW, from the Committee on the Public Lands, presented a bill providing for the sale of a tract of land lying in the State of Tennessee, and a tract of land in the Indiana Territory; which was twice read, and committed to a Committee of the Whole on Monday next.

Mr. CLAY, from the committee appointed, on the seventeenth instant, on the petition of Arthur St. Clair, made a report thereon; which was read, and referred to a Committee of the Whole to-morrow.

Mr. CLAY, from the same committee, also made a report on the petition of John Craig, referred on the eighteenth instant; which was read, and referred to the Committee of the Whole last mentioned. The report is as follows:

The committee, to whom was referred the petition of John Craig, have had the same under consideration, and report: That it appears to them that the said petitioner took an early and decided part in the defence of the liberties of his country; that, in 1775, he entered the service of his country, in the Revolutionary army, in which he continued until the close of the war; that he served in different grades, but was, in the month of December, 1778, promoted to the rank of Captain of light dragoons in the Pennsylvania line, which rank he held until the close of the war; and that he was in active service through the whole of the war: when he left the service of his country, his constitution was much impaired and injured; he was without the use of his third finger on the right hand, which was so contracted as to render that hand and arm an encumbrance; notwithstanding, he forebore to apply to his country for relief; but being now bowed down with old age and infirmity, and being poor, and almost helpless, he is compelled to throw himself upon the charity and humanity of his country. The committee deem this one of those hard cases which is not provided for by law; they, nevertheless, are of opinion, that it is one of those cases which will justify a departure from the strict rules of law and practice, and do, therefore, submit the following resolution:

Resolved, That the accounting officer at the Treasury be directed to pay Captain John Craig one thousand dollars.

Mr. JENNINGS presented a resolution of the Legislature of the Indiana Territory, instructing him, as the Delegate from that Territory in the Congress of the United States, to use his utmost endeavors to obtain an extension of the right of voting to all citizens thereof of the age of twenty-one years and upwards.—Referred to Mr. RANDOLPH, Mr. JENNINGS, and Mr. GARDENIER.

A message from the Senate informed the House that the Senate have passed two bills, to wit: "An act authorizing the discharge of Nathaniel F. Fosdick from his imprisonment;" and "an act for the relief William Mills;" to which bills

TREASURY DEPARTMENT,
January 23, 1811.

SIR: I have the honor to transmit a report prepared in obedience to the resolution of the House of Representatives of the 16th instant.

I have the honor to be, &c.

ALBERT GALLATIN.

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives of the 16th instant, respectfully submits the following report:

The Secretary of the Treasury is directed, by the resolution aforesaid, to lay before the House,

1st. A list of the Directors of the Bank of the United States and of its several branches;

2dly. A statement of the stock held by foreigners, and in what countries; and of the stock held by citizens, and in what States and Territories;

3dly. The amount of specie, according to the last returns, in the vaults of the bank, distinguishing the part which belongs to the bank; the portion belonging to individuals, and to the United States.

It is enacted by the sixteenth provision of the seventh section of the act to incorporate the subscribers to the Bank of the United States, that "the officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation; and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statements; provided that this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the Bank."

No other but general statements, such as are enumerated in that clause of the act, can be required by the Secretary of the Treasury, or have been furnished by the bank. And these include neither the names of directors, nor the names or place of residence of the stockholders.

On the subject of Directors, no statement whatever is ever made; and in relation to the capital stock, its gross amount, and the portion allowed to each bank, are the only particulars which can be required, or are exhibited in the statements transmitted to this office. It was ascertained some years ago, from an authentic source, that near three-fourths of the stock (about one thousand eight hundred shares) were held by foreigners; and the fact, though not officially communicated to the department, was stated in the report respecting the bank made to the Senate on the 2d day of March, 1809. No subsequent or other information has been obtained on that subject; and, with very few exceptions, the names of the directors and stockholders, either abroad or in the United States, are unknown.

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the Treasurer, dated 21st instant, and marked (A.) herewith transmitted, to \$1,930,000, and that deposited in other banks, to \$875,462, making together with the balance in the Treasury on that day, \$2,805,462. The total amount of deposits by Government, by other banks, and by individuals, into the Bank of the United States and its branches, appears, by the last received returns, to be \$8,464,770. And the statement B3., herewith transmitted, and extracted from the latest returns received at this office from the bank, and from the Treasurer, exhibits a general view of the situation of the bank, and of all the objects embraced by the third part of the resolution of the House.

It appears from these that the debts due by the bank and payable on demand, including both every species of deposits and bank notes, amount to \$13,673,369. And that the resources of the bank to meet those demands consist of the following items, viz: 1st. Specie, bank notes of other banks, and balance due in account by other banks, payable to the bank on demand, (including also \$25,804 in funded debt and drafts on collectors, which may be considered as specie) - - - - - 6,322,875

2. Loan to the United States, payable on giving three months' notice - - - - - 2,750,000

3. Notes discounted at 60 days, and due by individuals (including \$31,242 overdrawn in Charleston) - - - - - 14,609,537

Making an aggregate of - - - - - 23,682,394

The act to incorporate the subscribers to the Bank of the United States does not itself expire by any positive clause of limitation; but it is enacted by the third section of the act that the subscribers shall be a corporation and body politic, and so continue until the 4th day of March, 1811. It is presumed that some means will be devised, either by Government or by the bank, whereby the debts due to and from the corporation may be collected after that day. So far as relates to the Treasury deposits, no inconvenience can arise, as, in any event, the loan obtained from the institution is a sufficient pledge for their payment. But a doubt may arise, from the manner in which the act is expressed, whether, under the tenth section, the bank notes still in circulation will not continue to be receivable in all payments to the United States. The propriety of some provision which may remove every doubt on the subject, or otherwise prevent the inconvenience resulting from that construction of the act, is respectfully suggested.

All of which is respectfully submitted,
ALBERT GALLATIN.

A.

TREASURY OF THE UNITED STATES,
January 21, 1811.

Cash in the different Banks and Offices of Discount and Deposit.

Bank of Maine - - - - -	50,747 58
Bank of Marietta - - - - -	19,601 62
Bank of Kentucky - - - - -	91,061 53
Office of Discount and Deposit, Wash- ington - - - - -	101,895 55
Office of Discount and Deposit, Nor- folk - - - - -	16,483 76
Office of Discount and Deposit, Boston	341,054 47
Office of Discount and Deposit, New York - - - - -	625,417 09
Office of Discount and Deposit, Balti- more - - - - -	199,201 28
Office of Discount and Deposit, Charles- ton - - - - -	36,645 03
Office of Discount and Deposit, Savan- nah - - - - -	49,691 63
Office of Discount and Deposit, New Orleans - - - - -	166,701 03
	<u>2,805,462 03</u>

THOMAS T. TUCKER,
Treasurer of the United States.

B.—3.

*General state of the Bank of the United States and
its branches.*

Discounts - - - - -	\$14,578,294 26
Loans to United States - - - - -	2,750,000 00
Funded debt - - - - -	14,338 00
Overdrawn by the Com- missioner of Loans, Charleston - - - - -	31,242 48
Treasury drafts not yet collected - - - - -	11,466 01
	<u>2,807,046 49</u>
Due by other banks in account - - - - -	894,144 77
Notes of other banks on hand - - - - -	393,341 15
	<u>1,287,485 92</u>
Specie - - - - -	5,009,567 10
Real estate - - - - -	500,052 77
	<u>24,183,046 54</u>

Capital stock - - - - -	\$10,000,000 00
Notes in circulation - - - - -	5,037,125 22
Deposites by Government - - - - -	1,929,999 60
Deposites by banks - - - - -	634,448 01
Deposites by individuals - - - - -	5,900,422 83
	<u>8,464,770 44</u>

Balance of outstanding drafts on bank and branches - - - - -	171,473 17
	<u>13,672,363 83</u>

Undivided surplus appli-
cable to the discharge of

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Mr. WRIGHT, as, if the papers were sent to the printer, the House would not have the benefit of them in the discussion of the subject of the bank, which would be continued this day. The motion for printing was lost—42 to 55.

BANK OF THE UNITED STATES.

The House resumed the consideration of the unfinished business of yesterday, and the question depending at the time of adjournment, to wit: the indefinite postponement of the order of the day on the bill to continue, for a further time, the charter of the Bank of the United States, was again stated.

Mr. EPPES said that he apprehended the few remarks he had to offer to the House, would not be considered as well-timed after the funeral oration had been pronounced over the expiring charter of the United States' Bank. He would trespass but a short time on the patience of the House, and confine his remarks to the policy of renewing the charter, viewed only as a national measure. He considered it unnecessary to say anything on the Constitutional question. If ever the theory of persons who believe that political principles may be demonstrated with mathematical certainty shall be realized, and a political Euclid be published, I would put for the first proposition these principles:

1. That all power not delegated is reserved to the States or to the people.

2. That the power to incorporate a bank is neither delegated nor essentially necessary for carrying into effect any delegated power. For the demonstration, I would insert the speech of a gentleman from New York, (Mr. PORTER,) who has combined, in a masterly manner, on this subject, the purest principles and most luminous elucidation. Passing over, therefore, this part of the question, I shall confine myself to such observations as will tend to show that the renewal of the charter is not necessary for the prosperity of agriculture and commerce, as has been stated, that the union of a moneyed institution with a Government, possessing the power of war and peace, is dangerous to Republican institutions; that the dissolution of the charter will produce no injury to the public or to individuals; that the same principles which induced the Republican party, in the year 1790, to oppose the incorporation of this bank, ought to prevent the renewal of the charter at the present time. In examining the first of these questions, viz: the operation of the dissolution of the charter on agriculture and commerce, I will not trouble the House with any general observations on the subject of banks. Their tendency to facilitate commerce, so long as

ulating medium, above the sum necessary for a particular object, must produce one of two effects, either to depreciate the medium, be it specie or paper, or to drive it into new channels. These are plain, obvious principles, which no gentleman will, I presume, deny. Let me ask, then, 1st. What amount of paper medium can, with safety, be employed in the commerce of the United States? 2. What amount can be put into circulation by the present existing banks, independent of the United States' Bank? The real basis of a safe paper circulation, so far as it respects commerce, is the productive labor of a community above its consumption. What a nation does not consume it exports. No paper circulation, therefore, can, with safety, be extended beyond the amount of the exports of a nation. Indeed, it ought not to exceed in amount the domestic exports which constitute the only certain part of the productive labor of the community, so far as respects its commerce. The export of foreign articles depends so much on circumstances, over which we have no control, that a paper currency, which rested for redemption on that, would be liable, whenever commerce was interrupted, to produce general ruin and bankruptcy. The domestic exports of the United States may be considered in value as equal to forty millions of dollars. The export of foreign articles, in the year 1807, was near sixty millions of dollars. This great export of foreign articles was produced by particular circumstances which no longer exist. During favorable years, viz: 1803, 1804, 1805, the export of foreign and domestic articles averaged seventy-six millions of dollars; so that it would appear, taking the domestic and foreign exports as the real amount of capital which can be employed in commerce, an ability to circulate seventy-six millions of dollars of paper, is sufficient for all commercial purposes.

The Bank of the United States, with a capital of ten millions of dollars, has put into circulation, in credit and notes, nineteen millions of dollars; fourteen millions of dollars in accommodation credit, exclusive of mortgages and bonds, and constituting active circulating medium, and five millions in notes. As a moneyed institution, it is admitted that their affairs have been well managed. Other banks, therefore, may circulate to the same amount, in proportion to their capital.

The bank capital of the United States, exclusive of the United States' Bank, is \$50,000,000; five times the capital of the United States' Bank; of course, supposing them to manage their affairs as well, they can put into circulation, in credit and notes, five times the amount put into circulation by the United States' Bank: five times nine-

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we want ability to circulate a paper medium for commercial purposes? Our export of foreign articles, from the peculiar situation of the world, has almost disappeared. Our merchants are more in want of a field to exercise their capital than of capital itself. It is a fact, which cannot be denied, that we have at present a surplus capital, which cannot be employed in commerce; and that the paper circulation is increasing in a ratio neither proportioned to our population, consumption, nor wealth. I have confined my observations entirely to the view of a capital, such as is necessary for commerce. No gentleman has advocated the renewal of the charter for the purpose of creating a capital for internal improvement. This appears, by general consent, to have been considered as more properly within the sphere of the several State Legislatures. At the time this charter was originally granted, the situation of the United States was very different from what it now is; but three banks existed, with a capital of less than three millions of dollars; our exports amounted to less than nineteen millions. Our commerce languished for want of a circulating medium; we are now in danger of suffering from a paper currency, resting on no solid basis, and liable, with a reverse of fortune, to recoil on ourselves. I cannot, therefore, consider the renewal of the charter, viewed only as a measure of general policy, necessary for the creating capital for purposes of commerce.

But, sir, said Mr. E., I object to the union of a moneyed institution with a Government, as dangerous to Republican principles. Next to frequent elections, the great security in every country, against arbitrary power, is the dependence of the Government on the great body of the people for supplies. Hence the objections to a revenue dependent on loans, indirect taxes, &c. Money has been aptly termed the sinews of war. It may, with equal propriety, be termed the sinews of oppression and usurpation. The facility of commanding large sums by means of a moneyed capital, dependent on the Government, is calculated to destroy the dependence of the Government on the people. If we look at the history of England we shall find that their short period of liberty was while the King was dependent on the Commons for supplies. The creation of a great moneyed capital in that country, under the control of the Government, has totally destroyed that valuable feature in the English constitution. It has created a body of men who contribute to the prodigality of the Government, who furnish the means and share in the spoils of the nation. The history of the Bank of England, and of its paper system, is one which ought to warn the friends

sion, power, and means. It is this system which has caused the British Government, after mortgaging, from year to year, its revenues to the bank, to accumulate a national debt, to the enormous amount of six hundred and seventy millions of pounds sterling. The average quarterly advances of the Bank of England to the Government, in the year 1797, was four times the whole amount discounted for individuals. From these extraordinary advances, produced by the union of the Government and the bank, it must have failed in the year 1797, but for the interposition of Parliament. On the 26th day of February, 1797, the cash and bullion in the bank amounted to £1,272,000—average notes in circulation to £8,640,250—bills discounted to £2,905,000—advances to Government to £10,672,490. From the report of the committee appointed by Parliament, in February, 1797, to examine into the state of the bank, it appeared that the debts of the bank amounted to £13,770,390—that its assets exclusive of the permanent debt from the Government, (and what these assets were does not appear,) amounted to £17,597,298—leaving in favor of the bank, £3,826,903. This sum of £17,597,298, consisting of debts and assets, was not sufficient to meet their cash debts, amounting to 13,770,390 pounds. At this time the permanent debt due from the Government to the bank, amounted to £11,686,800—almost four times the whole sum left in the bank after payment of its debts. The funds of the bank, being in the hands of the Government, the Government unable to pay, kindly interposed to save the bank from ruin, and made their paper a tender. This, sir, was one of the blessings produced by a union between the Government and the bank.

But, sir, many gentlemen have exercised their ingenuity in portraying the ruin which must fall on individuals, and the injury which must be sustained by the public, from a dissolution of the charter. From the statement, just laid on our table from the Treasury Department, it appears that the stockholders of the bank are in more danger than the community.

From that statement we find that the debts due by the bank, and payable on demand, amount to

By the bank, and payable on demand, amount to	\$13,673,369
To meet this debt the bank has on hand, in cash	5,009,567
Notes and debts due from other banks	1,313,350
Making, in all, their cash funds amount to	\$6,382,517
Deducting this sum of \$6,382,517 which may be	

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way. According to the principles of banking, the profit is, annually or quarterly, divided; of course, the company, on winding up its affairs, can only withdraw its capital, viz: \$10,000,000 Of this capital they have in hand,

in cash	5,009,567
In notes and debts due by other banks	1,313,857
In a debt from the United States	2,750,000
In houses	500,000
In debts in suit	154,164
In bonds and mortgages	221,000
In stock of the United States	20,000
Total	\$9,968,588

This, sir, amounts very nearly to their stock, and if they reserve their cash on hand as part of that stock, and meet the payment of their debts with the debt due to them, they have nothing to draw from the community, which can produce the slightest pressure. They may find difficulty in collecting a sufficient sum to meet their own engagements, as, from the moment of the dissolution of their charter, their debts will stand on the same footing with any other company winding up its affairs, and must be collected in the same manner.

Much stress, sir, has also been laid on the necessity of the bank for the management of the finances of the United States. We are told that a complete control is given, by the Constitution, over the finances, and that a bank is necessary for their management. The term finance is not to be found in the Constitution. The bank is not necessary for the collection of taxes, or imposts, or for paying the debts, to use the language of the Constitution. It has never been used for the collection of taxes. For the collection of duties it is used only in a limited way. We have upward of eighty-five places for the collecting duties, and only nine branch banks. It is used for the payment of the interest of the debt only in consequence of a Treasury regulation. Commissioners of Loans within the several States are even at this time established by law for paying the interest on the debt. The bank, therefore, is not essential for this object. The great payments for the Army and Navy are not at present made at bank—paymasters and pursers discharge this duty. All payments on account of the civil list are made at bank, but the greater portion of these are at the seat of Government. A bank is, therefore, not essential for making these payments. Until new arrangements are made, temporary inconveniences may be avoided

prevent a renewal of the charter. In a free country there is nothing more important than a recurrence to those fundamental principles which unite, in one common band, those who grant power and those who exercise it. The peculiar organization of the Government of the United States combines in a single charter powers administered by men deriving their authority from two separate and distinct sources, the people and the States. The weakness of the old Confederation, which, although armed with general powers, was found unequal to giving a practical operation to those powers, produced the Federal Constitution. This charter, the offspring of compromise, was considered in the Convention by one party as too weak to accomplish its objects—by the other as sufficiently strong to endanger the liberty of the citizen. These two principles were soon manifested in the administration of the present Federal Constitution. Those who thought it too strong gave to the Constitution a rigid construction, and opposed constructive powers. These were termed anti-Federalists. Those who thought it too weak, were disposed to ingraft vigor on it by construction, and contended for constructive powers. These were termed Federalists. The eclat which attended the adoption of the Constitution threw the Government exclusively into the hands of the Federalists. The great popularity of General WASHINGTON, on whose brow grew in full vigor the laurels of the Revolution, balanced, for a time, these two contending parties. With the same manly firmness, as during the Revolution, he stemmed the torrent, and attaching himself exclusively to what he deemed the interests of his country, administered the Constitution according to its true principles. He commenced his career as President on the 30th of August, 1789. In 1791, the charter of the bank was granted. On this great measure the two great parties were, for the first time, arrayed against each other. It was at that time considered a party question, inasmuch as it involved the very principles on which the parties divided, viz: "delegated powers" and "constructive" powers. Unfortunately for his country, General WASHINGTON, on this occasion, took side with the Federalists. The creation of a moneyed interest, connected with the Government, was a favorite measure of those who were willing to ingraft energy on the Constitution, and was warmly opposed by the party unwilling to add, by construction, the extraneous aid of a moneyed capital, to a charter considered, on a fair construction, sufficiently energetic. The defeat of General St. Clair took place in the November following the establishment of the bank, and the

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existed in the United States, with a capital of two million one hundred thousand dollars. The creation of a bank, with a capital of ten millions of dollars, almost five times the capital of all the existing banks of the Union, under the patronage of the General Government, was calculated to produce and did produce a subserviency on the part of the stockholders to the views of their party. The influence of this powerful moneyed capital was long felt. Nothing but the multiplication of State banks, and the increase of capital from the peculiar and fortunate circumstances under which the United States were placed, could have emancipated us from the shackles imposed on us by a moneyed institution wielded by foreigners. I rejoice that the period has arrived, when this privileged class must surrender its charter—when the moneyed capital of our country shall no longer be wielded as an engine of party—when the Republican party shall have an opportunity of testing the truth of the principles for which they contended in the year 1790, and of giving on the present, as on the former occasion, their support to the principle, "That power not delegated is reserved to the States or to the people."

Mr. STANLEY.—Mr. Speaker: After the able discussion which this subject has already undergone, I should not have asked your attention, but for the observations of the gentleman from Virginia, (Mr. EPPES,) who has last addressed you. That gentleman, with a view to justify such a decision of the question as he desires, has advanced propositions which are in themselves so incorrect, and supported them by arguments so palpably unreasonable, that I shall trouble the House a short time in reply.

The gentleman tells us it is as true as any mathematical axiom, that a power not expressly granted by the Constitution to the Federal Government cannot be exercised by that Government; that whenever a political Euclid shall be composed; this principle should be placed as first in clearness and importance; and the speech of the gentleman from New York, (Mr. PORTER,) on the bill before us, should be added as an appendix or commentary proving its truth. In terms, sir, the gentleman's proposition is true, but the gentleman has not avoided the error of those who have preceded him on that side of the question; he confounds the powers of the Federal Government with the means of executing such powers; he does not distinguish between the objects of the Federal compact and the means of effecting these objects. And upon this hinge of error did the argument of the gentleman from New York turn.

can be employed by that Government, unless such means be found expressly pointed out in the Constitution. And, sir, to show how truth may be obscured, and error supported, by ingenuity, my respect for the gentleman from New York forbids my saying by sophistry, I will append, as a commentary, the speech of that gentleman on this question.

With respect to the Constitutional right of Congress to incorporate a bank for the prosperous administration of its finances, the very able arguments already made, and in my apprehension very imperfectly met, require little to be said in its support. My view of this part of the subject shall, therefore, be brief, and I may be pardoned for offering it. To incorporate a company, in other words to grant to certain persons a legal or artificial capacity, distinct from their natural, is an act of sovereignty, a delegation of which it is true can only emanate from the sovereign power. If the Federal Government be not sovereign as to any of its objects, they cannot incorporate a company for the attainment of any of its objects. But, if, on the other hand, the Government is sovereign as to any object, the power to incorporate companies, as the fit and necessary means for the attainment of that object, must regularly result from and be appurtenant to this sovereignty. This power is not left to inference; the Constitution expressly declares that Congress shall have power to make all laws necessary and proper to carry into effect the powers delegated, and that such laws shall be the supreme law of the land.

The Constitution, it is true, does not, in terms, give the power to incorporate a bank—that instrument details only the objects of the Government, and delegates certain general authorities to effectuate the ends for which it was formed. In every case it is silent as to the particular means to be employed or the mode to be observed in the attainment of the object or end. Instead of attempting to specify in any case the means of executing a power, it is silent in that particular in every case, granting to Congress the general power, I have just stated, to make all laws necessary and proper to carry into effect the delegated powers. Among the general powers expressly granted, is this—"To lay and collect taxes, to borrow money, to pay the debts and provide for the general welfare of the Union." What wisdom first suggested, the experience of twenty years has confirmed, that a bank is not only a fit but the most useful means of collecting the revenue of the United States. It has been found the readiest and most certain resource from

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means that can be devised to obtain its ends; and being both "necessary and proper" to carry into effect the power expressly granted to Congress, "to collect taxes, to borrow money and pay the debts"—it must be Constitutional.

But, sir, the gentleman from New York says, the United States are not sovereign, and cannot exercise a right of sovereignty; because they depend on the will of the States for existence; for, said he, should the States neglect or refuse to elect Senators or to make the laws necessary for electing representatives, the Federal Government would die of its own imbecility. This may be true: the Government may cease to exist, yet, while it does exist, there are powers which it alone can exercise without the control or interference of any other authority. To these purposes, assuredly, then it must be supreme, or sovereign. For example, the Federal Government has power to lay and collect taxes and to regulate commerce. Is there any power in this country—I speak of moral, not physical power—which can prevent them laying such taxes and making such regulations of commerce as they think fit? The Constitution of the United States is the act, of "We, the people of the United States." So are the State constitutions—both are derived from the same source—each is independent of the other, and only dependent on the sovereign will of the people, constitutionally expressed. The States have certain powers exclusively confided to them; they may prescribe the descents of estates, and regulate distribution of property and other objects of internal police; they are sovereign as to these objects; the Federal Government is as much so as to the objects within the sphere of its jurisdiction. Yet, Mr. Speaker, obvious, indeed indispensable as is the inference and deduction of the right to incorporate a bank for the management of the financial concerns of the United States, from these premises, gentlemen say it is only an implied power, that no power can be used unless expressly granted in the Constitution, and the exercise of implied powers is deprecated as unknown to the Constitution, and abhorrent to Republicanism, and dangerous to our liberties. Let me ask gentlemen, and I pray they will inform me, whether they do not daily act upon implied powers? If not, let them speak, in what part of the Constitution do they find power to build light-houses? Where is the power which their President, doubtless with the feelings of a man and the firmness of a magistrate, so freely exercises of removing at pleasure from office men who were appointed with the consent of the Senate? You

in the Constitution; the authority results from the powers granted, and are necessarily implied as the fit and necessary means of executing the powers which are expressly granted. Yes, sir, whether I am answered or not, the fact is manifest, that the implied powers of the Government are not only fairly deducible from the spirit and letter of the Constitution, but are essential to the most familiar operations of Congress. And, sir, it is in proof that gentlemen are in the daily habit of exercising, without scruple or reserve, those implied powers, which, when urged in support of the bank, they turn from with affected abhorrence, as if a single glance, like a look at Medusa's head, would turn them into stone! They have repeatedly acted under them, still grasp them with the love of power and the ardor of ambition, and will only suit their hold to that force which shall deprive them of the reins of empire.

The gentleman from Virginia deprecates a bank which shall be connected with the Government; he calls this a dangerous union of the sword and the purse, reminds us of the abuse by the British Government of the Bank of England in obtaining loans, and of the public debt of that Kingdom. None of those objections apply to the Bank of the United States. The charter of the present bank places the institution beyond the control of the Government. It is bound to accommodate the Government with loans to a limited amount when required; but this obligation on the bank, although its performance may at times chance to be unfavorable to the institution, is yet connected with no danger to the country, since the one cannot lend, until we, the representatives of the people have authorized the other to borrow. The Executive of the United States is said to bear the sword, but, sir, Congress holds the purse, and it has not been explained to us how the existence of a bank is to render one subservient to the other, or to convey the sword and purse into the same hand. I can, however, conceive a plan of a bank which would sharpen the sword of the Executive and give a power to his arm that might be used to the ruin or degradation of our citizens. Adopt the plan which has been recommended, and which is to rise upon the ruins of the present institution; erect one great bank whose branches shall embrace all the States and whose capital shall swallow all the State banks, give to the Administration the enormous patronage of the appointment of directors to this institution, and place the credit and business of every man connected of necessity with banks at the mercy or pleasure of an Executive or his minions,—the commercial and the enterprising

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As to the Bank of England and the British debt, I perceive not the bearing their connexion can have on the subject before us. That the British Government have made too free use of the ability of the bank to lend, cannot expose us to like mischiefs; because our bank cannot lend, nor our Administration borrow, but by the express authority of Congress. Of the British debt, I know its amount is enormous. Yet, sir, how, and for what purpose, has that debt been thus swollen? Perhaps the people of Great Britain owe to that debt the preservation and enjoyment of rights dearer to freemen than their purse. It is, sir, at the cost of that debt that Great Britain maintains her existence and independence as a nation. She might have submitted without an effort, without expense, and, free from debt, have sunk under the chains which the tyrant of France, the enemy of the human race, has fastened upon all the kingdoms of continental Europe. Rather than see my country bow in subjection to that direst of despotisms against which Great Britain has struggled, I would, in the spirit of an American, cheerfully bear my share of a debt as large as that which has been the subject of remark.

The gentlemen tell us we have sufficient bank capital without that of the Bank of the United States; that the capital of the State banks is equal to the wants of the United States, and that, if this institution is continued, there will be an excess of paper, and the consequent mischiefs to the country. Sir, gentlemen need not feel alarm on this point. There is no more danger of a surplus of capital being employed in banks, than of such surplus being employed in any other business. The thing regulates itself. Bank notes may be emitted beyond the use of the country, but you can no more force them into circulation beyond this necessity, than you can force purchases and sales of tobacco and flour beyond the consumption of a country. The commerce of every country requires a certain sum of circulating medium. The amount must be ascertained by experience, which alone can show how much it will absorb and employ. If you emit paper beyond this amount it will, of necessity, return upon the banks. This discovery is not modern. It is as old as the science of banking. And of the errors of a bank, no one is more unfavorable to them than the issues of paper beyond the necessity of the country; for, so long as they keep within proper limits, it is found that they may emit one dollar and two-thirds, or two dollars of paper, for each dollar of specie in their vaults; but when their issues of paper exceed these limits, the excess continually returns, and instead of one dollar in specie meeting two of paper, a dol-

result of fair banking—such has been the operations of the Bank of the United States, of whose capital, debts, and issues, the Government has been weekly informed. It is from the State banks that danger is to be apprehended. Of their capital, (I mean not their nominal, but their specie capital,) of their debts, and their resources, we are, and must remain entirely ignorant; and we have seen that some of these institutions, dishonestly emitting paper beyond the sum authorized by their capital, and beyond the necessities of the country, their notes have returned upon them, they have been unprepared to pay, their paper has depreciated, and individuals have been defrauded to a vast amount. And such, again, may be the case if we remove the check, the restraining influence, which the large and solid capital of the Bank of the United States, and its prudent direction, has enabled it to exercise over the State banks—these “mushrooms,” as the gentleman has called them, which, like Jonah’s gourd, have sprung up in one night and withered in the next.

The gentleman informs us that our exports of domestic products amount only to forty-five millions of dollars; that the capital of the different banks in the United States, at the rate of issues by the United States’ Bank, may emit ninety millions of dollars, and he infers that a paper medium beyond the amount of domestic exports cannot be necessary. This opinion, sir, needs an elucidation, which the gentleman did not give it. Why the amount of produce purchased for exportation should form the measure of circulating medium is, to say the least, not self-evident. Nor can I conceive why, in calculating the medium necessary or useful for the concerns of the country, we should exclude from view the purchases for internal use as well as for external sale, or lose sight of the repeated use made of the same note or piece of metal in its continued circulation. The circulating medium of a country, whether paper or specie, represents, because it commands, the articles we need and get in exchange for it. What the sum should be, my political arithmetic does not teach me, nor does the rule of the gentleman from Virginia. In my opinion, experience alone can show it, as I have before said, viz: that amount which the commercial, agricultural, and manufacturing concerns of the country will require and can employ; to be ascertained from the amount of silver and gold in circulation, bank credit, and bank notes issued and not returning upon the banks. It is, I admit, a fact, a proud fact, that the exports of our country have increased from eighteen to forty-five millions. New fields have been opened, produce increased, means of conveyance multiplied, and

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United States, was to have been expected from his information and liberality. The fact previously stated, and repeated by him as a defect in arrangement, that the notes of the bank and its branches are not paid but at the office from which they issue, and at which they are made payable, is not a ground of complaint. The bank and its branches have each but a small portion of the capital. Of the branches, the largest portion, (only \$1,800,000,) is in New York, and it is absurd to suppose that either the branch with this capital, or the others with less, should redeem, at all times, the notes emitted upon a capital of ten millions. The thing is impossible.

From the opinion advanced by the gentleman, that the state of the bank should rather excite the fears of the institution for its own safety or solvency, than awaken the apprehensions of the community for the effects of dissolution upon them, I beg leave to dissent. We have had, in debate, various statements of the affairs of the bank, drawn either from former reports or conjecture. The report of the Secretary of the Treasury, this day laid on our tables, shows the present state of the bank. To this I shall refer for facts.

There is due to the bank from individuals upon notes discounted - - - - -	\$14,578,294 25
Other banks owe them for notes and in account - - - - -	1,287,485 92
The Government owe, including the late loan, funded debt and Treasury drafts - - - - -	2,807,046 49
	<hr/>
They have in gold and silver - - -	18,672,826 66
And in real estate - - - - -	5,009,567 10
	<hr/>
500,652 77	
Making a property to face the demands on them - - - - -	24,183,046 53

On the other hand what do they owe?

To the holders of their notes in circulation - - - - -	\$5,037,125 22
To the Government for deposits - - -	1,929,999 60
To other banks due in account - - -	634,348 01
To individuals for deposits - - - - -	5,900,422 83
To balances on outstanding drafts - -	171,473 17
	<hr/>
Making the total amount of their debts	13,673,368 83

Thus, sir, with a property of twenty-four millions of dollars, leaving the stockholders the original stock of ten millions, and a surplus of more than half a million to meet bad debts. But were it otherwise—were it possible that, of the debts due them, ten millions should never be collected.

Such, sir, is the state of the account on the side of the bank.

How stands the account with the debtors of the bank, or rather with the public?

The bank can demand the debts due it	\$18,672,826 66
Admit the demands upon it are applied as sets-off to their full amount	13,673,368 83

The balance still to be raised by the country is - - - - - 4,999,457 83
Within a trifle of five millions of dollars.

Whence is this sum to come? Not from the vaults of the other banks; they do not possess it. It is stated in the able speech of the representative of the city of Philadelphia, in the Legislature of Pennsylvania, upon the resolution respecting the bank, that the report of the state of all the banks of that State, recently made to the Legislature, shows that all the banks in Philadelphia (excepting that of the United States) have together but a little more than one million of dollars in specie: those who have the best means of information, declare the specie in the banks of New York is not greater, and in those of other cities unquestionably less. The State banks then have not the money, and cannot produce it. Will the notes of these banks pay the debt? No, sir, because their notes will be returned upon them for payment, which they cannot make. These banks know their own strength or weakness, and that they dread this crisis, is manifest from the course they have already adopted; they have curtailed discounts and commenced calling in their debts. The consequences you learn from the moans of your correspondents, and from the petitions which daily press your table. The want of money has produced a want of punctuality; confidence is destroyed; the life, the animating spark of business is, as it were, suspended, and deep distress is fast spreading over the commercial world. Sir, my deductions are supported by facts. They prove the solvency, indeed the strength of the Bank of the United States, is such as to merit the confidence of the people, which it enjoys; while the situation of the State banks, and the deficiency of the precious metals, gives a fatal assurance of the inability of the country to submit, without great distress, to the operation of having extracted from it the large debt due the bank.

The gentleman from Virginia says it is no argument in favor of a continuance of the bank, that it is necessary for the management of the financial concerns of the United States, for that the word "finance" is not to be found in the Constitution. Sir, were I called upon by one of the yeomanry of this country—one whose days had

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may not be found in the Constitution, Congress are thus required of necessity to provide for the management of the "financial concerns of the United States."

Permit me now, sir, to notice objections urged against the bank from other quarters, and of a different nature—objections not calculated, probably not intended, to influence this House, but which may have an influence abroad. Gentlemen have objected to what they term the foreign influence in our affairs from a portion of the stock of this bank being held by foreigners; and the gentleman from Maryland (Mr. WRIGHT) has alleged that aliens, traitors, and old tories, are intrusted with its direction; others with him have said that the bank and the funding system are twins of the same progenitor, (Alexander Hamilton,) and that the question of creating this bank was the ground on which the parties of the United States first divided.

The charter of the bank did not exclude foreigners from purchasing shares, because, at the period of its establishment, our country was without capital, and it was an object rather to invite foreign capital to the United States than to repel it; their large funds and low rates of interest have enabled them to give more in the market than our citizens could afford to pay, and they have consequently purchased. But, if it be a sin to have sold stock to foreigners, lay it at the right door; and when you revile the measure, do not forget it was one of Mr. Jefferson's Administration, who sold to English merchants, in the year 1801, all the stock in the bank which the United States owned.

The charter denies to any stockholder, not a resident of the United States, the right either of a vote in the choice of directors; or a seat at the board of directors. And thus divested of any power to interfere in the concerns of the bank, it requires more than human penetration to discover, or more than ordinary jealousy to suspect, how foreigners can influence even the affairs of the bank, much less, through its agency, the concerns of the country.

This cry of foreign influence from the use of foreign capital is a modern bugbear. During our Revolutionary struggle, our soldiers were clothed and armed with funds borrowed in Europe; our nerves were hardened, our sinews stiffened, and our independence achieved with the assistance of foreign capital. Yet the heroes and sages of that day suspected not any improper foreign influence; they were brave and wise, but not as cunning as our present statesmen who have made the discovery.

As to the aliens, traitors, and old tories, who

tled in that country, and has resided there and at New Orleans ever since; he is declared to be a man of high character for integrity and honor. Mr. Clarke has had a seat as a delegate on this floor; though not a native of the United States, he is as much a citizen as any of the inhabitants of Louisiana, made so by treaty, and as much so as will be the Representatives of the State of Orleans, "that is to be," in the next Congress. Against his character nothing has been alleged other than that imputation which the people of the United States have fixed upon the character of every man who has been the friend or associate of Wilkinson and Burr. Let me not be understood as committing myself to the opinion of the guilt of these gentlemen. I was not of Burr's jury—he may be guilty; nor am I of Wilkinson's committee—he may be innocent; yet suspicion deeply stains his character; it will take much of the labor of the file to rub it off.

But, sir, let it be supposed that an individual who was unfriendly to our Revolution should have been chosen by those who are proprietors of the bank to a seat in its direction. Would the choice be either new or criminal? Sir, a person whose name is recorded in the proscription statute of a State as an "old tory," was appointed by Mr. Jefferson a district judge of the United States. In other States, but particularly in New York and Pennsylvania, persons who bore arms against us and adhered to our enemy in the Revolutionary war have also been appointed by Republican Presidents to offices of high trust. Why were these "old tories" thus honored and trusted? Because they possessed integrity and ability to qualify them for their stations. And, why might not a tory be chosen a director of a bank, if his virtues and talents had gained him the confidence of the stockholders? The choice seems to me to be as pardonable in a stockholder as in a President—or is it, sir, that the Republican President has been converted into a political Pope, and has alone the power to pardon and absolve from political sins?

Of the origin of the Bank of the United States, the honor is certainly due to the first Secretary of the Treasury. In justice to his memory, the fact ought frequently to be mentioned and never to be forgotten. But, sir, the merit of obtaining the adoption of the plan is not entirely his. The original bill in every stage received the support of gentlemen of the Republican party; among those, who were its earliest supporters, one most distinguished for ability, the present Secretary of the Treasury, continues it advocate to the present hour.

In support of the claim of the bank for a

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hands of collectors, and affords one of the best securities against delinquencies.

"2. *Transmission of public moneys*—from one quarter of the Union to another. This is done by the bank at its own risk and expense.

"3. *Collection of the revenue*.—The punctuality of payments introduced by the banking system, and the facilities offered by the bank to importers indebted for revenue bonds, are amongst the causes which have enabled the United States to collect with so great facility and with so few losses the large revenue derived from impost.

"4. *Loans*.—The bank has been eminently useful in making the advances, which, under different circumstances, were necessary. At one time Government owed it \$6,200,000, exclusive of 6 per cent. stock original subscription, and a similar disposition to accommodate has been repeatedly evinced whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained."

The report then states, that although the banks established under authority of the States might afford considerable assistance to the Government in its fiscal operations, there is none which can transmit moneys with the same facility or to the same extent; none which can afford so great security against any possible losses, or greater resources in relation to loans. "Nor is it eligible that the General Government should, in respect to its own operations, be entirely dependent on institutions over which it has no control whatever." He also notices the objection of foreigners holding stock, but this he declares "does not at all events appear sufficient to outweigh the manifest public advantages derived from a renewal of the charter."

Mr. Speaker, gentlemen may disregard, but they cannot despise, nor can they destroy, this high testimony, which, while it establishes the utility of the bank, bears honorable testimony to the upright and patriotic spirit in which its operations have been conducted. This testimonial outweighs all that the bickerings of interest, the suggestions of jealousy, or the apprehensions of the uninformed, can assert against the institution. For myself, sir, had I no other knowledge of the subject, I should feel no hesitation upon the question of constitutionality and necessity of a bank which Hamilton recommended, WASHINGTON approved, and Gallatin, after twenty years experience, continues to advocate. The shade which has been attempted to be cast upon the fame of Hamilton as the "progenitor of the bank" must when examined, like every other attack upon it, but add to its lustre. Sir, I shall not attempt to eulogize the name of that great man; were my feeble powers equal to the task I should deem it unne-

declared that upon the question of incorporating this bank in 1791, originated the division of parties which has since existed in this nation. Until this time sir, this discovery has not been made. I had understood a very different history of the origin of party. I have heard, I have read, for youth did not permit me to witness, that at the formation of our present Constitution many persons with different views were opposed to its formation and adoption, preferring that shadow of union in which the States, as with a rope of sand, were attempted to be bound under the Confederation, to the strength, firmness, and unity, in which we are knit by the Federal Constitution. The good sense and good fortune of our country prevailed, the Constitution was adopted, and those who as anti-federalists had opposed the adoption of the Constitution were organized with very few exceptions under the name of Republicans, in opposition and decided uniform hostility to the measures of the Federal Government.

The charter to the bank thus indeed became with some of its opponents a question of party, although it received the support of others who were anti-federal. In this party opposition it only met the fate of every other measure, however wise and salutary, originated and perfected at that period. Let us hope sir, that the blindness and injustice of such rule of action is not again to be revived.

Let me now, sir, rapidly glance at the consequences which are to attend the rejection of this bill. The intercourse between the States, and the dealings of the citizens of a State with those of different parts of the same State, require a circulating medium far above the quantity of gold and silver which exists amongst us. No man contends that the demands of commerce, or even the ordinary transactions of individuals, can in the present scarcity of gold and silver be carried on without the intervention of bank notes. Hitherto, sir, the notes issued in each State have answered some of the domestic uses; but for the purpose of remitting to, or receiving payment from other States, no reliance has ever been placed upon the notes of State banks. It has frequently happened that notes have got into circulation, purporting to be issued by a bank which in fact never existed, and others issued by banks which had failed. The difficulty of knowing the real from the spurious, and the solvent from the insolvent, has so far restrained the circulation of the notes of State banks within the limits of their own State, as to have prevented any late frauds and losses except among the very uninformed part of the community. In these circumstances, the known ability

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ence; to dissolve an artificial capital of the Bank of the United States of ten millions of dollars, and not merely this capital of the Bank of the United States, but, by withdrawing from the other banks the very large portion, if not the whole of their specie capital, with which they must part to pay the Bank of the United States the debts daily increasing against them, by the receipt of their notes in discharge of individual debts to the Bank of the United States, you inevitably render the State banks less able to accommodate, and diminish greatly that portion of the circulating medium emitted by these banks.

Of the distress which this measure will occasion, I need say nothing. The evidence of its existence and magnitude surrounds you, and have been already repeatedly pressed upon your attention. You are in fact to destroy all confidence in bank paper. Can my constituents know whether the bank note of New Hampshire or Georgia, which is offered them, is genuine or spurious? Can they know whether a bank is in credit, or insolvent, of which they have never before heard? Yet, sir, as gold and silver is not to be had, and the United States' Bank notes will no longer exist, you reduce the people to this dilemma; either they must receive the notes of State banks, ignorant as they must be of their genuineness of credit; encounter the daily risk of being defrauded, or keep on hand their produce. In this state of uncertainty, bank notes must lose their credit; will cease to circulate; must soon depreciate, and scenes of speculation and embarrassment will ensue not unlike those which have heretofore nearly ruined our country.

Mr. Speaker, the present is not a time for dangerous experiments upon the prosperity of our country. With foreign nations our relations are more than at any other period perplexed. In my apprehension the nations of Europe, with more than one of whom we have advanced in a warlike attitude, will have more forbearance and less temper than is usual with them, if they do not meet us with decided, not secret hostility. And, in this time of danger from abroad, while with a non-intercourse law in one hand, you fetter all external commerce, sink your revenue, and reduce the value of property; with the other, by destroying the bank, deranging the finances of the Government, overturning private credit, and destroying commercial confidence, you press with the deadly weight of an incubus upon the exertions of domestic industry and enterprise. The inevitable effect of these measures must be to turn loose a torrent of overwhelming calamity, the extent of which you cannot estimate, and the force of which you cannot stay. The conse-

of the United States would have progressed to the end undisturbed by any intervention of mine. If a train of reasoning be adopted that tends to disturb this Constitution, and to give to it a construction and interpretation that it will not bear, it then becomes a duty to state opinions respecting it, and to vindicate the true intent and express understanding thereof.

The Constitution was solemnly and deliberately made by wise men, who composed the Convention, in the name of the people of the United States, and it was solemnly and deliberately ratified by conventions of the States respectively. It is simple and easy to be understood by any one who, knowing the objects and ends for which it was ordained, will candidly examine it. A defence of the Constitution is a defence of the great and good men who made it what it is; for, if the Constitution be dark, of obscure intent, and dubious meaning, it is not what it ought to have been. If it be dark, obscure, and dubious; if it be capable of inconsistent or contrary interpretation, the conventions of the ratifying States have not examined it with that careful attention which it required. Vain and empty surmises will evaporate, the characters of the men who made it being considered; the scrutinizing inquiries of the several ratifying conventions being contemplated, and by a candid examination, without prejudice, of the Constitution itself.

The Constitution is a compact between the individual States and the United States. It is the great charter and bill of rights delegated and given by the several States composing the Union to the United States. It contains rights, powers, and principles, to be acted on by the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty; and we, "the people of the United States," have ordained and established it the Constitution of the United States of America.

The rights, powers, and principles, enumerated in the Constitution, are void of elasticity; they are firm, fixed, and unbending; they will not yield to discretion on various assumed constructions; unchangeable in their nature, intent, and object, they are mutable only by the Constitutional authorities.

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people"—article eleventh of the amendments to the Constitution. This article manifests that all the rights delegated to the United States are enumerated in the Constitution, and the enumerated rights shall not

not prohibited by it to the States, are reserved to the people"—article twelfth, amendment to the Constitution. By this article it is manifest that a power, not distinctly and expressly delegated to the United States by the Constitution, nor expressly and distinctly prohibited by it to the States, is reserved to the States respectively, or to the people. These amendatory articles exclude and prohibit an assumption of discretionary powers; of constructive powers; and of all powers and rights not expressly and distinctly enumerated in the Constitution. By the word "power," or the word "right," is understood a fundamental principle of the Constitution; the Congress cannot change, alter, vary, or destroy it; it assumes form when it is clothed with a legislative act of the Congress, and ordered to operate.

It may be proper to notice some observations made in the course of this debate, which appeared to evidence a disposition to show that the Congress was vested with discretionary or constructive powers in matter of principle. It has been intimated that Congress had not power to disband an army; if the power was not assumed. If the Constitution had been well considered, this and other similar intimations would have been omitted. An army is raised in consequence of a law, bottomed on the clause in the eighth section of the said article, which empowers Congress to raise and support armies. By the eighth section, the Congress is empowered to "make rules for the government and regulation of the land and naval forces." And the Congress is prohibited to make an appropriation of money to support an army for a longer term than two years. The Congress, acting on these powers, will disband an army. A law may be made to expire by a limitation in itself; if not, the Congress will make a law to repeal it. A law may be enacted to repeal the law whereby an army is raised, and then that army will be disbanded. The writ of *habeas corpus* is a prerogative writ of the people of the United States, and was in use previous to the existence of the Constitution; it is not prohibited by the Constitution to the people; it is a duty of the judiciary to issue writs of *habeas corpus*, proper cause being shown. The privilege of that writ does not depend on the clause in the ninth section of the first article of the Constitution; that clause only contains an express condition or reservation, that the Congress shall not suspend the privilege of the writ of *habeas corpus*, except when, in cases of rebellion or invasion, the public safety may require it. A writ of *habeas corpus* being issued by the judiciary, a law suspending the privilege of that writ

tain a navy," and to make rules for the government and regulation thereof; and to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations;" and consequently to make rules and regulations for the government of seamen of every description. It has been asked, by what delegated power does Congress make laws to prevent settlers on lands, the Indian title whereof has not been extinguished? If the gentleman who made the inquiry had considered that land, the Indian title whereof was not extinguished, remained by treaty for the use of the Indian tribe until the extinguishment of title, and that, a treaty being a supreme law of the land, the Congress is empowered to give it complete effect, the inquiry probably would not have been made.

It is urged that a discretionary power is necessary to carry the enumerated powers into effect. If the discretionary power alluded to intends only a power to legislate on the delegated right or power, in a proper time and adequate manner, this is no more than a power to make laws to carry the delegated power into execution; but if by "discretionary power," is intended a power to assume at discretion a right, or principle, not enumerated in the Constitution, under pretence of carrying a delegated power into execution, it is denied that the Congress has that power; for if a delegated power cannot be carried into execution without assuming at discretion a right not delegated, it will only prove, that the Constitution in this respect, is deficient and requires amendment, and will not prove, that Congress to effect a measure, may at discretion do an unconstitutional act.

It has been argued, that the Convention left Congress to adopt the means, as circumstances might admit, to carry the delegated powers into effect. What is intended by the word *means* ought to have been explained in a Constitutional, not a discretionary manner. To produce an effect of a general nature the means ought to be commensurate and co-extensive. Water is a means to allay the thirst of all mankind; and there is no substitute. Ships and sea-vessels are a means of carrying on commerce between nations separated by the ocean, and there is no substitute. The Constitution vests Congress with power to regulate commerce with foreign nations, but no man will believe that, in virtue of that power alone, the Congress would attempt by a discretionary or a constructive power to adopt another principle, that is, to provide and maintain a navy to protect commerce.

The last clause of the eighth section is in the following words—"And to make all laws (that is,

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be proper here to inquire what is intended by the words "and all powers vested by this Constitution in the Government of the United States, or in any department or officer thereof," or what are the powers intended by the words "all other powers," inasmuch as it is probable that an opinion may have obtained, that by these words are understood some hidden occult powers, not expressly enumerated in the Constitution; that these powers are for the peculiar exercise of discretion, and that they are certain discretionary powers, to be discovered and assumed in extraordinary cases. If any such opinions are entertained, a careful examination of the Constitution will dissipate them. Powers other than those enumerated in the eighth section of the first article of the Constitution—these powers might all be mentioned—but that is unnecessary; some of them will be noticed. "Congress have power to provide by law for taking the census of all the people of the United States every ten years." Congress have power to appoint by law a day to convene other than the first Monday of December. To determine by law the time for choosing electors of President and Vice President of the United States. Section fourth of first article—"The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

"To make laws respecting the District of Columbia." "To declare the punishment of treason." Several of those powers denominated "other powers," are enumerated in the ninth and tenth sections of the first article of the Constitution. Congress have power by law to establish courts inferior to the Supreme Court. Congress have power to make all needful rules and regulations respecting the territory and other property of the United States. This enumeration may at present be sufficient to show what powers are intended by the words "other powers," and also to manifest incontrovertibly that the words "and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof," refer only to powers expressly and positively enumerated in the Constitution, and by it vested in the Government of the United States—that by these words are not understood, as some may have fondly imagined, any powers of discretion, fitted, when discovered, to fill chasms in the Constitution of the United States; and that by these words are not to be understood some concealed occult powers, waiting to be revealed by superior wisdom to meet nar-

difficulty; and this Constitution is not elastic, it will not bend to discretionary opinions.

I will now, said Mr. RHEA, with all due respect, approach the main point of inquiry, viz: is a power or right to create the Bank of the United States, expressly enumerated, to be vested or intended to be vested in Congress by the eighth section of the first article of the Constitution. It may be previously observed, that if in the ninth section of the first article there had been even a negative expression or enumeration of power, or right inserted, empowering Congress to create the Bank of the United States; as if it had been stated in the words following, or words to the same effect—"Congress shall not create the Bank of the United States prior to the year one thousand eight hundred"—there might have been some reason to presume upon. But a negative expression of a power or right of that import is not in the ninth section enumerated, nor in any other section of the Constitution. The words in the eighth section of the first article of the Constitution, which have caused such amazing solicitude and inquiring anxiety to discover some obscure occult power or right to create the Bank of the United States there, are the following: "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States," and (as expressed in the last clause of the section) to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (that is, the powers enumerated in the eighth section) and all other powers (that is, powers enumerated in other sections of the first article, and enumerated in other articles of the Constitution) vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Let these words be carefully and attentively examined, and all obscurity and difficulty will be removed; let them be connected in the manner they were intended to be connected, and no reason will be, to presume some unknown occult power, on which a pretension to create the Bank of the United States can exist. "Congress shall have power to lay and collect taxes." Let the words be connected, so that they shall read, "Congress shall have power to make all laws necessary and proper to lay and collect taxes, duties, imposts, and excises." Here, said Mr. R., a question presents itself, that is to say, for what purpose shall Congress have power to make all laws which shall be necessary and proper to lay and collect taxes, duties, imposts, and excises? The first clause gives the answer—"To pay the debts and provide for the common defence and

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moves doubtful interpretation, and establishes the truth contained in this section of the Constitution. Let this reading be prefixed to every clause in the 8th section, and the propriety thereof will be more apparent; for instance, Congress shall have power to make all laws which shall be necessary and proper to borrow money on the credit of the United States, to pay the debts, and provide for the common defence and general welfare of the United States. And here let it be observed, that the words "for the common defence, and general welfare of the United States," are words of limitation and restriction, and not of amplification of powers; these words direct to the end for which all taxes, duties, imposts, and excises, shall be laid and collected, and it follows that taxes, duties, imposts, and excises, shall not be laid and collected for any purpose whatever other than to pay the debts and provide for the common defence and general welfare of the United States.

The rights, powers, and principles, delegated by the individual States to the United States, and enumerated in the Constitution, are substantial, not formal; and, being substance, are unchangeable in their nature, and must continue until altered by the Constitutional authorities. An institution or principle which has power to put bank paper in the place of gold and silver, is substantial—not formal—and never can be fixed as a form, by way of appendage to the business of collecting taxes, duties, imposts, or excises, or by way of appendage to aid commerce, or to borrow money. With as much propriety may it be said to aid in establishing an uniform rule of naturalization, or in making uniform laws on the subject of bankruptcies throughout the United States. A principle, or a right or power to create the Bank of the United States is not inserted or enumerated among the rights and powers enumerated in the eighth section of the first article, nor in any other section of the Constitution. Let it not then be presumed that the Convention who made the Constitution, or the ratifying States, did, in an occult and obscure manner, vest the Government of the United States with a right or power to create the Bank of the United States in the manner and form belonging to the bank, the charter of which labors to be renewed. The Constitution contains no enumeration of a principle which can give any pretence for such presumption.

In the eighth section of the first article are enumerated rights and powers of minor importance than a right to establish the Bank of the United States. The right to establish uniform laws on the subject of bankruptcies throughout

sary and proper to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The insertion of that right or power affords sufficient reason to conclude, that if the Convention had intended to delegate to the Congress a power or right to create the Bank of the United States, the right or power to establish it would certainly have been expressly enumerated in the Constitution. "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."—11th article of amendments to the Constitution. Here, then, it may properly be observed, that the rights enumerated in the Constitution are certain, that is, identically and distinctly enumerated rights, and that those rights shall not be by discretion construed to deny or disparage other rights reserved to the people. A right or power to establish the Bank of the United States is not enumerated in the Constitution; that right or power, therefore, is not denied to the people; and the certain rights enumerated in the Constitution shall not be construed to deny that right to the people, that is, to the people in their individual State capacities. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."—12th article of amendments to the Constitution. The eighth section of the first article of the Constitution enumerates certain powers or rights delegated to the United States. The 10th section of the first article enumerates certain rights prohibited expressly or conditionally, to the respective States; but in the tenth section, or in any other section of the Constitution, a right to create bank institutions is not prohibited absolutely or conditionally to the respective States or to the people; that right therefore is not delegated to the United States, but is reserved to the respective States or to the people. The States respectively have legislated on that power and right reserved, and have established bank institutions, and the United States have not interfered to prevent them.

In the eighth section of the first article of the Constitution a right is enumerated. "The Congress shall have power to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States." The power delegated to the Congress by virtue and force of this clause, is eminently great, and requires no illus-

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ted States is an essential necessary means in collecting taxes, duties, imposts, and excises, for experience has proved that taxes have been collected without the aid of that bank. But if it be a means essentially necessary to collect taxes, it ought to be as extensive in operation as the law for collecting taxes. The nature of the bank institution proves that it cannot be coextensive with the law for collecting taxes. Ten dollars being the lowest sum for which a bill of that bank is issued, it is manifest that bills of ten dollars, twenty dollars, fifty dollars, and upwards, cannot aid generally in collecting and paying taxes; admitting the circulation of these bills to be coextensive with the operation of the law. The 10th section of the act entitled an act to incorporate the subscribers to the Bank of the United States, provides, "that the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold or silver coin, shall be receivable in all payments to the United States." But, notwithstanding the bills or notes of that corporation shall be receivable in all payments to the United States, as is provided for in that section, the act alluded to does not provide that the bills or notes of that bank shall be receivable in all payments to citizens of the United States. The Bank of the United States, therefore, cannot be an adequate means to collect taxes from all the citizens of the United States, and, if not from all the citizens of the United States, the operation of the bank will be partial, and consequently injurious to the people.

By the 10th section of the law alluded to, the bills and notes of the corporation established by that law are made receivable in all payments to the United States. The bonds for payment of duties and imposts on foreign merchandise imported into the United States are generally deposited in the bank of that corporation or in the respective branches thereof. Whatever benefit or advantage, if any, arises by collection of those duties and imports, accrues to that corporation; whatever gold and silver is paid on account of those duties and imposts, it remains at the disposition of the corporation, by reason that the corporation, by the law, are enabled to pay the amount of all the duties and imposts to the United States in bills and notes. These bills and notes afterwards come into the hands of the agents and public functionaries of the United States, and by them are paid to the citizens, and by this operation the bills and notes of the corporation obtain a circulation to a certain extent among the people, and, notwithstanding they may not be a legal tender in payment of debts

respecting the operation of the law incorporating the subscribers to the Bank of the United States; but what already has been observed may be sufficient to excite reflection on the machinery and influence of the mighty engine which the stockholders of the Bank of the United States have in their power at any time, for any purpose, to set in motion. The instrumentality of this engine pervades the United States in all elections; it can raise up and put down; it may say, "I can raise you to a conspicuous and exalted station, if you obey my directions, and if you do not, I can put you down." If an institution of this magnitude is good for the people of the United States—if its influence is for their benefit, let it be demonstrated. Suppose the citizens should refuse to receive the bills and notes of that corporation in payment of debts, what would be the consequence? Why, let us not say ruin to all would follow; but certainly many would be injured.

It has been said, that the Bank of the United States aids commerce. If it does, it must be in a manner very unimportant to the people of the United States in general. The bank may be a convenience to all who have to pay, in the first instance, duties and imposts on merchandise imported into the United States, and that benefit to them operates to throw on all the other people of the United States a prodigious mass of paper in place of gold and silver, the evident effect of which is to substitute the bills and notes of that bank in place of the precious metals; and to give that bank the power of commanding the medium of trade in the United States.

The action of the bank is within the United States and territories thereof; the bills and notes thereof, as has been observed, are made receivable in all payments to the United States; but the assumed position, "that the bank aids commerce," not satisfied with what has been said relative to the manner in which it aids commerce, returns and requires further explanation—and it is proper to give that explanation. The annual reports of the Secretary of the Treasury show the prodigious amount of goods, wares, and merchandise, every year imported into the United States from foreign countries, and particularly from Great Britain, and the dependencies and colonies thereof. Will any of the gentlemen who favor a renewal of the charter of the Bank of the United States, as it is called, inform this House, whether any part, and if any, what part, or to what amount of the cost of the goods, wares, and merchandise, imported into the United States, is actually paid for, to the merchants in foreign countries, to whom the orders are sent, in bills and notes of that bank,

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and territories thereof, to any foreign nation, in payment for the merchandise imported from that nation, and that no merchant of any foreign nation will receive bills and notes in payment for the merchandise ordered. The effect of all this is, that gold and silver is exported to foreign countries to pay for the goods, wares, and merchandise imported, after deducting from the gross amount of the value thereof that part which may have been paid for in produce of the United States. The consequence of which is, that the precious metals are drained from the United States, and the paper of the bank circulates among the people in the place of gold and silver. If that cause is suffered to continue to operate, a time may not be far distant when the paper of that bank will be the only visible medium of trade among the people; and a piece of gold or silver coin, (notwithstanding the Mint has issued great quantities thereof) will be rare to be seen. It has been said that the bank has been aiding to agriculture. If it be so, it is strange that the agricultural part of the community have sent no petitions or memorials to Congress praying for a renewal of the bank charter. From whom do all the petitions and memorials come? Not from agriculturists; not from all the merchants of the United States; but from persons interested in the continuation of that bank charter, and a portion of the merchants.

It has been urged that, if the bank charter is not renewed, ruin and destruction almost universally will fall on the people of the United States. These declarations, said Mr. R., affect me not, because I place no confidence in them. An agricultural people cannot be ruined, until it shall please the Almighty to prohibit the return of the seasons in their regular time, until it shall please Him to dry up the fountains of rain, and say there shall be no more seed time nor harvest. But if this bank is of such mighty force, that its fall will produce these direful effects, it is more prudent to meet them now, than to delay them to a future period. This nation is as well prepared to meet them now, as it will be hereafter.

It has been said, and insisted on, that the bank has aided the Government in its fiscal operations, and that the Government cannot well do, or do well, without it. Let it rather be said, that the Government has aided the bank, raised it into existence and afforded it every support, by placing in its hands the collection and deposition of the revenues of the Government for twenty years; by receiving from the bank its paper in place of gold and silver, and thereby leaving the gold and silver to be used to the benefit of the bank corporation.

the United States, is not bottomed on the Constitution—it is inconsistent with, and repugnant to the Constitution. A Constitutional government requires no aid—can have no aid from an unconstitutional principle. The great men who made the Constitution, and the ratifying States, have declared, that as it is, they made and ratified it, and the people of the United States adopted it for the purpose therein enumerated and delegated; and if the Government cannot exist in virtue and by force of the powers, rights, and principles expressly enumerated and delegated in the Constitution, without the aid of a principle violating the Constitution, it is time that there should be another grand convention, with powers to make another Constitution. But in my opinion, said Mr. R., the rights, powers, and principles, expressly enumerated and delegated in the Constitution, are completely adequate to all intents and purposes for the existence of the Government, without the aid of any principle inconsistent with and repugnant to the Constitution.

Mr. McKee.—Mr. Speaker, having once troubled the House on this subject, it is not without much regret that I ask the attention of gentlemen to a few more remarks before the question is taken.

The opposers of this bill have uniformly contended against the exercise of a power under the Constitution which is not expressly delegated to Congress by the letter of the Constitution. This position cannot be maintained by the experience of what is past; nor can it be adhered to in future; or in the management of the affairs of this Government. And I conjure gentlemen to pause, before they give a construction to the Constitution, which they themselves have, on other occasions, violated; and which they will be compelled again to violate, or desert the best and dearest interest of their country.

Sir, the Territory of Louisiana has been purchased since the commencement of the Republican Administration; and this act constitutes one of their strongest titles to the fair fame with which they are surrounded. And yet I ask where (according to the construction contended for) is the power under the Constitution which could authorize the mode of this acquisition? Will any gentleman point it out to me? For I confess I cannot perceive it. I know Congress are expressly empowered by the Constitution to declare war; and the power to declare war includes the power to acquire territory by the successful result of that war. And hence it would seem to follow that the Government may, with propriety, attain the same end by treaty or purchase, which they could

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general embargo during its continuance puts an end to all commerce. And it is perfectly absurd to say that the general delegation of power to regulate commerce, includes the power to suspend it altogether. But the Constitution has delegated to Congress the power to provide for the general welfare, and common defence; and a withdrawal of the property as well as the persons of our citizens from the ocean in times of difficulty and danger, by means of a general embargo, thereby reserving to the country the resources as well as physical force of the people unimpaired, is, in fact, providing for the general welfare and common defence. And hence results the power exercised by Congress of laying an embargo. But, sir, this is also a constructive power, not expressly delegated to Congress by the Constitution; and therefore, by the doctrine contended for by the opposers of this bill, cannot be exercised.

Congress have built a house for the President of the United States, that would, in point of size and magnificence, beggar anything to be found at St. James's or elsewhere. They have established post offices in all the States of the Union, and by law exempted the postmasters from serving on juries as well as performing military duty; by this means creating an influence in the interior of the States, without any express delegation of power, authorizing the act; and therefore (according to the construction contended for on this occasion) unauthorized and unconstitutional.

I might proceed to enumerate a long catalogue of cases, in which Congress have exercised powers under the Constitution which were not expressly delegated, but drawn entirely from the reason, spirit, and essence of the instrument; and justified alone in their fitness and efficacy to carry into effect some of the great class of powers delegated to Congress by the Constitution. The people of the United States have experienced the most happy consequences, arising solely from the exercise of those constructive powers, against which some gentlemen now declaim with so much apparent zeal; and which are certainly less tortured and far-fetched, than the construction for which those gentlemen so pertinaciously contend.

When we view the past we find that all parties have uniformly given the same practical construction to the Constitution.

Washington, the great Father of his Country, Mr. Jefferson, Mr. Gallatin, and all the magistracy of the United States, including both Houses of Congress, have given directly or indirectly the same construction to the Constitution; and with these illustrious examples and precedents before me, I cannot arrogate to myself the self-sufficiency

ment by its great father, and where that construction has been ratified by the sovereign voice of the people, it should remain unchanged.

The gentleman from Pennsylvania (Mr. SMITH) has endeavored to assimilate the power now attempted to be exercised to that exercised in the adoption of the odious alien and sedition laws, (as they have generally been called.) And if, sir, the gentleman had forgotten (as he seems to have done) the first article in the amendments to the Constitution of the United States, then indeed, his parallel would have been an appropriate one, differing from the construction now contended for, only in the signal circumstance, that the alien and sedition laws, in their practical operation, tended to abridge the liberty of the citizen, whilst the bank is a matter of policy alone.

But these alien and sedition laws were in direct hostility to the first article in the amendment to the Constitution, which is in the following words: "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press." This prohibitory article shows the real difference between the two cases.

Much sensibility has been manifested in relation to State rights, which, it is apprehended, will be prostrated by the renewal of this charter. Sir, I am a friend to State rights, in the safe and inviolable preservation of which we have the surest guarantee for the perpetuity of this Government. But, sir, I ask if there are not extremes on this subject? And whilst we are guarding against *Scylla* with care and solicitude, is there no danger of falling on *Charybdis*? Are not the power and influence of some of the States now almost paramount to the power and influence of the General Government? By your refusal to renew the charter of the United States' Bank, you considerably enhance this power in the hands of the great States. Your revenue is then to be collected and deposited in State banks. About one-third of it will be collected by the State of Pennsylvania, and will be deposited in her banks. And those banks are, as they relate to you, entirely foreign banks. You have no control whatsoever over them or any of them. But the State of Pennsylvania has a control over them; and consequently Pennsylvania, (if you destroy the charter,) has in her fangs the purse of the nation; which, as the gentleman from Virginia (Mr. EPPES) says, constitutes the sinews of war. Pennsylvania possesses within herself the physical force; a force that would be formidable to the whole United States, were it arrayed against

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What constitutes the power and influence of a State? Certainly money and physical force are the principal and most requisite ingredients; and by refusing to renew the charter, you throw into the hands of the great States all the additional influence from the resources of the nation being confided to their hands. And at the same time you reduce to the condition of mere cyphers the States of North Carolina, Tennessee, Ohio, Kentucky, and all the New England States except Massachusetts, by withdrawing entirely from their control and management the public purse of the nation.

I do not wish, Mr. Speaker, to be understood to entertain or insinuate any distrust whatsoever of the integrity or loyalty of the great and respectable State of Pennsylvania.

If, sir, the destinies of this nation are to become dependent on any one State in the Union, I have no predilection for any State: I have no unwillingness that Pennsylvania should be that State. But, sir, I protest solemnly against holding, by so feeble and precarious a tenure, the great and inestimable privileges of self-government.

But, it is said, we may console ourselves with the improbability of this great State's making any improper use of the powers vested in their hands, by a refusal to renew this charter. Sir, when at peace with foreign nations, whilst harmony prevails at home, no immediate danger is to be apprehended; but when your political horizon is black with internal tumult, when you are menaced with external danger, and treason stalks abroad with gigantic strides, it is then that the colossal power of the great States become most eminently dangerous; it is then that it may be exercised to the utter humiliation of the little States, and the subversion of your Federal Government, by withholding from your hands the fiscal resources of the nation. To guard, when it may be practicable, against possible events so disastrous, becomes the imperious duty of every sound and honest politician.

There is a view of this question which strikes me with great force, and to mention which was my principal motive in rising at this time. It has been repeatedly stated by the opposers of this bill, that the revenue could, with equal facility, be collected through the agency of the State banks. Is it then their object to deposite the public money in State banks? I pause for a reply. The silence which pervades this Hall, solemnly answers this question in the affirmative. It is, then, intended to deposite the revenue and resources of the United States of America in the coffers of State banks! I say this is dangerous, unjust and manifestly partial.

The President, Directors and Company of the

the United States' Bank would be willing to give \$1,000,000 for the banking privilege alone, (which seems to me to be a very large allowance,) the remaining one million two hundred and fifty thousand dollars are given to the United States, for the benefit arising to the bank from the deposits of the public money.

This sum will be increased to at least \$2,000,000, or perhaps \$3,000,000 or \$4,000,000, by that part of the bill before you, requiring the Bank of the United States to pay interest at the rate of three per cent. on all sums which may remain in the hands of the bank longer than one year. This increased sum, arising out of the use of public money, is as much the *bona fide* property of the people of the United States as any other portion of their revenue. The proportion of this sum, to which my constituents (the people of Kentucky) are entitled, is about \$100,000. And it is now gravely proposed to wrest this sum from their hands, not for the public service or public good, but for the express purpose of putting it into the pockets of the wealthy capitalists of Pennsylvania!—the State bank stockholders of Massachusetts, Maryland, and Virginia! Will the people cheerfully acquiesce in this unjust prostitution of their honest earnings? If they do, I have mistaken their character.

When these are some of the consequences which are seen to result from a refusal to renew the charter of the United States' Bank, no man can be much at a loss to account for the instructions given by Virginia, Massachusetts, and Pennsylvania, to their Senators and Representatives in Congress.

My friend (Mr. JOHNSON) has informed you, that a renewal of this charter would be granting an exclusive privilege to a few stockholders, and exclusive privileges are odious. If my worthy friend would only examine the bill now before you, he would find that it is not an exclusive privilege. For Congress have therein reserved to themselves the power to establish a new bank whenever policy or prudence shall dictate its necessity or expediency; and this power reserved by Congress, of establishing a new bank, will insure to the United States a prudent and faithful management of the money which it is proposed to confide to the direction of the President, Directors, and Company of the United States' Bank; which, it is acknowledged by the gentleman from Virginia, (Mr. EPPES,) has hitherto been managed with great propriety.

The gentleman from Virginia (Mr. EPPES) stated that this question was originally decided as a party question. In this the gentleman is certainly mistaken. It was not originally considered a party question. In order to satisfy my

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proves without doubt that this question was not decided by party principles. But why, I ask, are such unceasing efforts made to prove this a party question? Is the gentleman from Virginia, (Mr. EPPES,) whose argument on this subject was directed principally to this point, fearful of a diminution of his customary weight in the scale of discussion, or of the insufficiency of his reasoning and argumentative powers to draw his friends with him on this question? And is he therefore compelled to resort to this argument, as a means of whipping into the track those who are disposed to obey the honest convictions of their own judgments? If such be his object, I can only say for myself, that I am drawn along with that gentleman, by the cords of reason, policy, and common sense alone. And, where these are too weak, I cannot be seduced from my own opinion, by the fascinating eloquence of any man, or any system of proscription or denunciation, however formidable it may be either in plan or operation.

It has been fashionable for gentleman on this floor, when speaking of party, to declare they were not party men. But, sir, I acknowledge I am a party man. And I have no hesitation in declaring that I belong to the people's party. It is for the promotion of the happiness and prosperity of the people of Kentucky in particular, and of the whole United States in general, that my services are rendered in this House. And if on this or any other occasion, the true interests of the people of Kentucky have been misunderstood by me, they will, as I know they can, select from among themselves some individual possessing more wisdom to perceive, and an inclination to pursue the means best calculated to promote the interest, happiness, and increasing prosperity of my country. And should they adopt such a measure as salutary or expedient, their decision would receive my most sincere respect and acquiescence.

It is for the protection and promotion of the best interests of my country, and of my constituents, that I have again presented myself before this House, to give a last and perhaps a feeble view of the impolicy and the deleterious consequences of the act which I fear is now about to be done.

Before I sit down, permit me to advise my political friends, who vote with me on this occasion, (for I have no right to administer advice to others,) to suffer the decisive vote now to be taken on this great and much agitated question. We have given this bill all the support constitutionally within our power; let the majority, if against us, now decide, and take on themselves that awful weight of responsibility which awaits their

Messrs. SMILIE and MACON spoke in favor of the indefinite postponement of the bill, and Mr. QUINCY against it.

About five o'clock the question was taken, and carried in the affirmative—yeas 65, nays 64, as follows:

YEAS—Lemuel J. Alston, William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Edwin Gray, James Holland, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Alexander McKim, William McKinley, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Porter, Peter B. Porter, John Rea of Penn., John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Sage, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, John Smilie, George Smith, Samuel Smith, Henry Southard, George M. Troup, Charles Turner, jr., Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

NAYS—Joseph Allen, Willis Alston, jun., Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, junior, William Ely, James Emott, William Findley, Jonathan Fisk, Barent Gardenier, David S. Garland, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Jonathan O. Moseley, Thomas Newbold, John Nicholson, Joseph Pearson, Benjamin Pickman, junior, Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Randolph, Thomas Sammons, John A. Scudder, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

And then the House adjourned until to-morrow morning eleven o'clock.

FRIDAY, January 25.

The bill from the Senate, entitled "An act authorizing the discharge of Nathaniel F. Fosdick

time, and decided in the affirmative—yeas 82, nays 61, as follows :

YEAS—Messrs. Adgate, Alexander, Atherton, Baer, Bateman, Betts, Boss, Bradbury, Brown, Calhoun, Cannon, Champion, Chappell, Cilley, Clarke of North Carolina, Clark of Kentucky, Clendennin, Comstock, Condict, Conner, Creighton, Crocheron, Cuthbert, Edwards, Forney, Forsyth, Gholson, Grosvenor, Hawes, Henderson, Huger, Hulbert, Hungerford, Ingham, Irving of New York, Jackson, Jewett, Kerr of Virginia, King of North Carolina, Langdon, Love, Lowndes, Lumpkin, Maclay, Mason, McCoy, McKee, Middleton, Moore, Moseley, Murfree, Nelson of Massachusetts, Noyes, Pickens, Pinkney, Piper, Robertson, Sharpe, Smith of Maryland, Smith of Virginia, Southard, Sturges, Taul, Taylor of New York, Taylor of South Carolina, Telfair, Thomas, Throop, Townsend, Tucker, Ward of New Jersey, Wendover, Wheaton, Wilde, Wilkins, Williams, Willoughby, William Wilson, Woodward, Wright, Yancey, and Yates.

NAYS—Messrs. Baker, Barbour, Bassett, Blount, Breckenridge, Burnside, Cady, Caldwell, Clayton, Clopton, Cooper, Crawford, Culpeper, Darlington, Davenport, Desha, Gaston, Gold, Goldsborough, Goodwyn, Hahn, Hale, Hall, Hanson, Hardin, Herbert, Hopkinson, Johnson of Virginia, Kent, Law, Lewis, Lovett, Lytle, Lyon, Marsh, Mayrant, McLean of Kentucky, McLean of Ohio, Milnor, Newton, Ormsby, Pickering, Pitkin, Randolph, Reed, Root, Ross, Ruggles, Sergeant, Savage, Smith of Pennsylvania, Stanford, Stearns, Strong, Tallmadge, Vose, Wallace, Ward of Massachusetts, Webster, Whiteside, and Wilcox.

The SPEAKER laid before the House two Messages from the President of the United States, one enclosing the documents respecting the public accounts of Colonel James Thomas, called for by the House; and the other a report respecting the Cumberland road; which being severally referred, the House adjourned.

THURSDAY, March 14.

Mr. McLEAN, of Ohio, presented a resolution of the General Assembly of the State of Ohio, requesting that measures may be taken for defining the legal exposition of the conflicting claims to an exclusive use of the late improvements on steamboat navigation, and whether recent improvements made to a discovery that has long been in use can entitle the discoverer to the benefit of a patent agreeably to the Constitution of the United States.—Referred to the Committee on the Judiciary.

Mr. CREIGHTON, from the Committee on the Public Lands, reported a bill for the relief of William Crawford and Frederick Bates; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill for altering the times of holding the circuit and district courts of the district of Vermont; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. MIDDLETON, from the Committee on Naval Affairs, reported the bill from the Senate "in

addition to an act in relation to the navy pension fund," without amendment; and the bill was committed to a Committee of the Whole.

The SPEAKER laid before the House a supplemental report of the Secretary of War, in relation to invalid pensions; which was referred to the Committee on Pensions and Revolutionary Claims.

The bill from the Senate "for the relief of George Rossier, and others," was read twice, and committed to the Committee of Ways and Means.

MONUMENT TO WASHINGTON.

Mr. HUGER, from the joint committee appointed on the 16th ultimo, respecting the remains of the late General GEORGE WASHINGTON, made a report containing joint resolutions providing for the erection of a monument to commemorate the virtues of GEORGE WASHINGTON; which were read, and referred to a Committee of the whole House on Saturday next. The report is as follows :

That they have carefully and attentively examined into the subject referred to them, and submit to the consideration of their respective Houses the following resolutions :

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That, in pursuance of the resolution of Congress of the 24th of December, 1799, a marble monument be erected by the United States to commemorate the military, political, and private virtues of GEORGE WASHINGTON.

That the receptacle for his remains be prepared in the foundation of the Capitol, and that the monument be placed over the same, and in the centre of the great hall of the Capitol.

That, on the four sides of the monument, he be represented—

As the defender of his country against the French and Indians in the war before the Revolution.

As the protector of her rights against British invasion, and the Captain of her Armies in the war of independence.

As the first President of the United States wisely administering the public affairs during eight years of peace, other nations being engaged in war.

As a private citizen voluntarily retired from public office, and engaged in the employments of agriculture.

And be it further resolved, That the President of the United States be, and is hereby, authorized to take measures to carry the foregoing resolution into execution.

NATIONAL BANK.

The bill to incorporate the subscribers to the Bank of the United States, was read a third time; and the question stated on the passage of the bill.

Mr. WEBSTER rose to oppose it, declaring that he had long held, and still continued to hold, the opinion that a bank formed upon proper principles would be good for the country, and as a proof of his sincerity, he expressed his wish that the House, by agreeing to strike out the objectionable part of the bill, would justify him in agreeing to the present one. He said, he had two objections to the bill, the first, the unnecessary magnitude

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of the capital; the other, the vesting Government with the appointment of five of the directors. Of the first, he said, that it was unprecedented; such a capital had never in any country been given to any bank, and he considered that alone as sufficient cause for rejecting the bill, unless its advocates could demonstrate that it was necessary. Besides, the object of the bill being to restore the currency of the country to a proper condition, the remedy necessary was not one to work far hence; it must be speedy, for which this capital would not answer, as it was to come in, only in reversion; it was unalienable, either this year or in the next: and he challenged gentlemen to show that the magnitude of the capital had any necessary connexion with the great object of the bill. Besides, he contended that great danger was to be apprehended from a large capital. He reminded the House that the very gentlemen who were the advocates of this capital, were the same who opposed the old United States Bank, upon the grounds that it would introduce great foreign influence; and insisted that Jay's Treaty was carried by it. Yet the capital of that bank was ten millions only—how then could they now insist upon a capital of thirty-five millions? If then there was danger in one, there was, of course, great danger in the other. The worst feature in this capital he considered to be its connexion with the influence given to Government over the direction of the bank; and to throw a light upon his intention, he said, that if any means could be adopted to take security against that undue influence, he would even now vote for the bill. That, to be useful, a bank must be independent of Government, had long been a maxim—in our own country that maxim was first established by the report of Hamilton, and was ratified by Washington, and the existence and conduct of the United States Bank for twenty-five years confirmed and proved the correctness of the opinion. What, he asked, could be the object of the provision? Gentlemen said it was not to control the bank—and in saying so, he contended that they gave up the argument; for, as to all necessary knowledge of the transactions of the bank that was sufficiently provided for by another provision of the bill. But if not for the purpose of exercising an undue influence in Government over the directors, he asked, what could they want it for. Mr. W. spoke at considerable length.

Mr. GROSVENOR supported the bill, and insisted that the power of appointing directors could not give to Government the influence which Mr. WEBSTER apprehended. Whatever influence those directors created could only be exercised by being backed with the deposits of Government—take away those deposits and the directors were nothing—for they had no control but by the influence of the deposits. As to the amount of capital he never thought it an objection; for, in order to encounter the obnoxious banks, it would be necessary for the National Bank to have a proud and commanding capital; and if it were true, as Mr. WEBSTER himself had said, that more of active capital than seven millions could not be

brought into use, the rest would be inoperative and harmless. For his own part Mr. G. should not be afraid of a capital of a hundred millions; for he should deprecate as much as Mr. WEBSTER a real Government bank, because it would not answer the object for which this was intended—for which purpose it must be entirely independent; and he endeavored to prove, by the state of the New York banks, that the Government having a share in the direction was perfectly innocuous.

Mr. HULBERT spoke in favor of the bill.

Mr. CADY spoke as follows:

Mr. Speaker: It has been said, that the greatest evil with which our country is now afflicted, arises from the conduct of the State banks in refusing to pay their debts; and that the hope of gain will deter them for ever resuming a correct course of conduct, unless the Government shall compel them to redeem their bills in specie. And sir, the friends of the bill upon your table insist that it will furnish a remedy for the evil which threatens ruin to our country; that it is absolutely necessary that that bill should become a law in order to enable the Government to coerce the State banks to alter their conduct. But, sir, what security have we that this great National Bank with a capital of thirty-five millions of dollars will, if incorporated, be an engine in the hands of the Government, by which the State banks can be chastised for their past transgressions, and hereafter be constrained to pursue a different course? What security have we that the National Bank will not pursue the same conduct of which we complain in the State banks? It has been truly said, that they are governed by motives of interest, and will never voluntarily redeem their bills. Will not the National Bank be governed by the same motives; will it not pursue that course which promises the greatest profit? Can you hope sir, that the magnitude of its capital will make it honest? It would be as reasonable to calculate that the ferocity of a lion would be decreased as his size was increased. What, sir, are the provisions incorporated in that bill, by which the instinct of the National Bank is to be controlled and the bank compelled to pay its notes? There is but one single provision calculated to have that effect, but what may be found in the charter of every bank in the Union; and that provision, considering the city in which the bank is to be placed, furnishes no security that the National Bank will be more punctual in paying its debts than the State banks. The provision to which I allude is this, that the bank is made liable to pay an interest of twelve per cent. per annum on such of its bills as shall be presented for payment, and payment be refused. What, sir, would be thought of this provision, had it also provided that any person who should prosecute the bank should pay his own costs, which will amount to more than the interest of twelve per cent.? Sir, the provision would be considered useless, it would be deemed a mockery. Yet such is the provision in effect; because this bank can only be sued in the State of Pennsyl-

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vania, where the plaintiff must pay all, or nearly all, his own costs. Had the bank been placed in New York, where defendants are obliged to pay the costs of compelling them to do justice, the amount of such costs, and the twelve per cent. interest, would have some influence in inducing the bank to pay its debts. But being placed in Philadelphia the bank will feel protected against its creditors; it will know that no one of its creditors, for any ordinary sum, can prosecute without submitting to a loss. Sir, the bills of this bank are to be circulated in every part of the United States, and no person who resides out of the State of Pennsylvania would think of prosecuting the bank, while he could dispose of its bills for any reasonable discount. We have then no security that the National Bank, if incorporated, will pay its notes, but the probability is, that it will at once adopt the practice of the State banks, and thus render the evils of which we complain almost incurable.

The Secretary of the Treasury in his annual report to us, expressly states in relation to a national currency, as follows: "It is nevertheless with the State banks that the measure for restoring the national currency, of gold and silver, must originate; for, until their issues of paper be reduced, their specie capitals be reinstated, and their specie operations be commenced, there will be neither room, nor employment, nor safety for the introduction of the precious metals."

It is then the avowed and deliberate opinion of the Secretary of the Treasury, who controls the financial concerns of this country, that this National Bank cannot go into operation and circulate the precious metals with safety, till the State banks resume specie payments. And yet gentlemen on this floor tell us that this National Bank can and must go into operation in order to compel the State banks to pay specie. How can the opinion of the learned Secretary and the declarations of these honorable gentlemen be reconciled? His opinion is, that the diseased state of the national currency must be cured before the National Bank can safely go into operation. They insist that it must go into operation in order to produce that cure. How, sir, is this National Bank either to flatter or compel the State banks to pay specie? To be of any service in this great work of reformation, it must, contrary to the opinion of the Secretary of the Treasury, go into operation surrounded by banks which do not and will not pay specie. It must be able to issue its bills and redeem them with specie. But, sir, from whence is this National Bank to obtain its specie capital of seven millions of dollars? We have been told that in June last all the banks in the United States had but fifteen millions of dollars in specie. From whence, I again ask, is the National Bank to get its specie capital? Can it draw that capital from South America or from Europe? No, sir; its specie capital must be drawn from the vaults of the existing banks, or from the pockets of its individuals. If the vaults of the State banks are to be drained to supply the National Bank with its specie capital, how is that mea-

sure to enable them to redeem their bills in specie? If the patient be debilitated and bled to fainting, would you not suspect the sanity of the physician who should insist that more bleeding was necessary, and was the only means of restoring to the patient a full pulse and strength? Sir, the directors of the State banks have wisdom enough to perceive that this great national engine, created to chastise them, will not soon be able to inflict a blow, unless they impart to it strength by giving it their specie. Pass the bill, then, upon your table, and you furnish the State banks with an apology for keeping their vaults shut, to prevent their specie from giving strength to the National Bank. There is, therefore, no hope that the banks which have hitherto refused to pay specie will soon resume such payments. No; self-preservation will dictate to them a different course. But, sir, there are other grounds on which I object to the bill under consideration. This bill gives to the National Bank a power to establish branches, without limit as to number, in every part of the United States. This appears to me an unnecessary and dangerous power. If we at first give to this bank the power to establish one branch in each State, it is enough to answer all the purposes of Government in the collection and distribution of its revenue. If experience shall show that the interests of the country require that this bank should have the power to establish more than one branch in any one State, Congress can hereafter grant to banks that power; but to grant to the bank at this time the power to establish as many branches as its interests may within twenty years dictate, is extremely unwise. No man can foresee the changes which may take place, and the improvements which may be made in this country in the next twenty years. Should this bank ever sell the Government stock, which at first is to form three-fourths of its capital, so as to have in its vaults a specie capital of thirty-five millions of dollars, it will then be able to control all the moneyed operations in this country; its interests and its avarice will dictate to it the establishment of branches in every commercial town in the United States, where banking capital can be used to advantage. I am unwilling this or any other bank should have this power over the State of New York; that State once had the misfortune to have within its bosom a bank claiming such a power. That State, sir, contains many commercial towns in which banking may be carried on profitably; and towns of that character will probably be very much increased, both in number and importance, during the time this bank is to exist; and I will not aid in giving to any class of men who already have accumulated sufficient wealth to become the proprietors of the National Bank, the power for the succeeding twenty years to establish a bank in every commercial town in the State of New York. No, sir, the citizens of that State ought to enjoy all the profits of all the banks within it, other than such as may be necessary to answer the fair purposes of the General Government. When the General Govern-

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ment claims more than this for its favorite bankers, the claim is unreasonable and ought not to be sanctioned.

There is another provision in this bill to which I am opposed. It is that, sir, which gives to the President and Senate of the United States power to appoint five of the directors of the bank. The effect of that provision will be to deter prudent, cautious capitalists from investing their funds in this bank; such men choose to manage their own business in their own way, or to have it managed by agents chosen by themselves, and will not very willingly subject their money to the control or interference of governmental agents. Suppose, sir, we were passing a law to sell a valuable tobacco plantation, but should reserve to the Government the right of appointing the overseer of that plantation: What prudent, cautious capitalist would purchase the plantation thus offered for sale? No man in his senses would make the purchase. Would it be said that the President of the United States, with the aid of the Senate, could not appoint a fit overseer for a tobacco plantation? Certainly, for he is as competent to make such appointment as to appoint the directors of a bank. Yet, sir, no prudent planter would purchase your plantation, unless he was at liberty to appoint the overseer. So, few cautious men will purchase stock in a bank in which the Government are, in any manner, to have an influence in the direction. Men, however, of daring enterprise, who are now loaded with Government stock, may take stock in the proposed bank, under an expectation that they can sell bank stock to more profit than they can sell the stock they now have. In the hands of such men, I do not believe a National Bank will be a national blessing.

Mr. CLOFFON said, that he did not intend to detain the House; it was utterly out of his power to do so, if he were ever so willing; the situation of his health would not admit of it; but that he rose merely to enter his protest, in as solemn a manner as he was able, against the doctrine advanced by the gentleman from Maryland (Mr. WRIGHT)—a doctrine which, he believed, had diffused itself extensively among members of this House—that is, that acts of Congress, and the execution of them, determined and settled the Constitutional question as to the right of future legislation upon the objects of those acts, so that when the subject-matter of any former act, which had been regularly executed, should be proposed to this Legislature as the object of a new act, the question whether it be Constitutional or not, was precluded from any further examination, and the Legislature bound to consider the act as authorized by the Constitution. This doctrine he abhorred, and took this occasion to enter his most solemn protest against it.

Sir, said Mr. C., I have been long a member of the House of Representatives. I was a member of it at the gloomiest period of Federal times, and have been during the whole course of the Republican Administration since; and I must say that of all the pernicious doctrines I have ever heard

advanced, this, in my view, is one of the most pernicious.

Are gentlemen, said he, whose fancies are tickled with this new idea, apprized of what may be the consequence of deciding and settling Constitutional questions by this standard? Do they not see that a few acts of Congress, affecting the great essential principles of personal liberty and personal property, might destroy everything valuable in the Constitution? We have, said he, already witnessed evil times, and evil times may again occur (I wish they may not be fast approaching) when such acts may be passed. According to this doctrine, the freedom of the press is already gone, for, by this doctrine, you declare that you have a right to revive the Sedition act whenever you please. That act had all the public recognitions spoken of as sanctioning and confirming the validity of the bank act. It was enacted in due form of legislation, carried fully into execution, as a valid law of the land, by judges and by juries, on many grievous and oppressive prosecutions; some of its victims heavily fined, and subjected to long and severe imprisonment; while the whole community submitted to the progress of its operation; and, though a large proportion of the people in some sections of the Union denounced it with expressions of abhorrence, at the same time as large a proportion, perhaps, in some other sections, made no objection to it. Thus it continued in force and operation until the expiration of the term for which it was enacted.

I have said, sir, observed Mr. C., and I feel myself justified in making the declaration, that, according to this doctrine, the freedom of the press is already gone; for, if this doctrine be correct, the Constitutional authority of Congress to revive the Sedition act, or pass a similar one, is established, and the free use of the press is every moment at the mercy of the Legislature. The right no longer exists, if the use can be taken away or restrained, *ad libitum*, by an act of the Legislature, and if that act is authorized by the Constitution. But, sir, continued he, the doctrine is not correct—it is grossly incorrect—it is an horrible political heresy. It is equally incorrect, equally heretical, applied to this bill.

The consequence of the establishment of such a doctrine as this, said Mr. C., would be that the Constitution itself, the supreme rule, by which all Legislatures acting under it should be governed, and which they are sworn to support, in making their laws, would, in a process of time, be superseded and rendered altogether a dead letter by a series of the acts of those Legislatures; nor would it require that the series be a very long one. What a monstrous doctrine! he exclaimed. He felt himself totally unable to denounce it in terms any way adequate to its enormity. He lamented this inability, this want of physical power to expose it in such a manner as, he believed, it ought to be exposed. Still more did he lament his unfortunate situation, from the circumstance that it had prevented him from entering into a general argument against the bill

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before them. He had wished to present to the House his views, extensively, on this important subject; but he found himself unable to sustain the fatigue of going through one-twentieth part of the remarks he wished to make; the few he had made in protesting against the shocking, destructive doctrine, just alluded to, had almost entirely exhausted him, and nearly deprived him of the power of respiration.

Messrs. STANFORD, HANSON, and PICKERING, also spoke against the bill, and Mr. CALHOUN concluded the debate by a few remarks in favor of it.

The question was loudly called for during the latter part of the sitting; and, being taken at a late hour, the vote on the passage of the bill was—yeas 80, nays 71, as follows:

YEAS—Messrs. Adgate, Alexander, Atherton, Baer, Betts, Boss, Bradbury, Brown, Calhoun, Cannon, Champion, Chappell, Clarke of N. C., Clark of Ky., Clendennin, Comstock, Conduct, Conner, Creighton, Crocheron, Cuthbert, Edwards, Forney, Forsyth, Gholson, Griffin, Grosvenor, Hawes, Henderson, Huger, Hulbert, Hungerford, Ingham, Irving of New York, Jackson, Jewett, Kerr of Va., King of N. C., Love, Lowndes, Lumpkin, Maclay, Mason, McCoy, McKee, Middleton, Moore, Museley, Murfree, Nelson of Massachusetts, Parris, Pickens, Pinkney, Piper, Robertson, Sharpe, Smith of Maryland, Smith of Virginia, Southard, Taul, Taylor of New York, Taylor of South Carolina, Telfair, Thomas, Throop, Townsend, Tucker, Ward of New Jersey, Wendover, Wheaton, Wilde, Wilkin, Williams, Willoughby, Thomas Wilson, William Wilson, Woodward, Wright, Yancey, and Yates.

NAYS—Messrs. Baker, Barbour, Bassett, Bennett, Birdsall, Blount, Brockenridge, Burnside, Burwell, Cady, Caldwell, Cilley, Clayton, Clopton, Cooper, Crawford, Culpeper, Darlington, Davenport, Desha, Gaston, Gold, Goldsborough, Goodwyn, Hahn, Hale, Hall, Hanson, Hardin, Herbert, Hopkinson, Johnson of Virginia, Kent, Langdon, Law, Lewis, Lovett, Lyle, Lyon, Marsh, Mayrant, McLean of Kentucky, McLean of Ohio, Milnor, Newton, Noyes, Orinshy, Pickering, Pitkin, Randolph, Reed, Root, Ross, Ruggles, Sergeant, Savage, Sheffey, Smith of Pennsylvania, Stanford, Stearns, Strong, Sturges, Taggart, Tallmadge, Vose, Wallace, Ward of Massachusetts, Ward of New York, Webster, Whiteside, and Wilcox.

FRIDAY, March 15.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1816; which was read twice, and committed to the Committee of the Whole.

Mr. YANCEY, from the Committee of Claims, made a report on the petition of R. S. Reed and D. Dobbins; which was read; when Mr. Y. reported a bill for the relief of Rufus S. Reed and Daniel Dobbins; which was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill for the relief of David Coffin, Samuel and William Rodman, and Samuel Rodman, junior; which

was read twice, and committed to a Committee of the Whole.

An engrossed bill, entitled "An act to alter the times of holding the circuit courts of the United States for the district of Vermont," was read the third time, and passed.

The House took up the resolution submitted on the 28th ultimo, by Mr. CONDUCT, and the amendment proposed thereto by Mr. NELSON, of Virginia; whereupon, Mr. NELSON withdrew his said amendment.

Mr. CONDUCT then modified his said resolution so as to read—

"Resolved, That for the residue of the session the stated hour of meeting of this House shall be ten o'clock in the morning."

On the question to agree to the resolution, it was determined in the negative.

The bill for the relief of John Delafield occupied much time in Committee of the Whole, and the Committee having risen, was refused leave to sit again. The bill lies on the table.

The bill making further provision for settling the claims to lands in the Territory of Illinois, was considered, and ordered to be engrossed for a third reading.

The bill for the relief of certain claimants to lands in the district of Vincennes, was also considered, and engrossed for a third reading.

The House resolved itself into a Committee of the Whole on the bill for the relief of John T. David. The bill was reported without amendment, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill for the relief of Erastus Loomis. The bill was reported without amendment, and ordered to be engrossed, and read a third time to-morrow.

SATURDAY, March 16.

On motion of Mr. FORNEY, a select committee of five members was appointed to inquire into the expediency of increasing the salary of the Clerk of the House of Representatives. Messrs. FORNEY, PITKIN, CLARK of Kentucky, GASTON, and JACKSON, were appointed the said committee.

An engrossed bill, entitled "An act for the relief of Erastus Loomis," was read the third time, and passed.

An engrossed bill, entitled "An act making further provision for settling claims to land in the Territory of Illinois," was read a third time, and ordered to lie on the table.

An engrossed bill, entitled "An act for the relief of certain claimants to lands in the district of Vincennes," was read the third time, and passed.

The House took up the bill from the Senate "relative to evidence in cases of naturalization;" Whereupon the said bill was again read as amended, and passed by the House.

MISSISSIPPI LAND CLAIMS.

The House then went into Committee of the Whole on the bill providing for quieting and

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household furniture, and on gold and silver watches," was read a third time, and passed.

The Senate proceeded to consider the amendment of the House of Representatives to the amendments of the Senate to the bill, entitled "An act in addition to an act to regulate the Post Office Establishment," and concurred therein.

The bill entitled "An act for the remission of certain duties on the importation of books, for the use of Harvard College, and on the carriage and personal baggage of his Excellency William Gore, Governor of the British Province of Upper Canada," was read a third time, and passed.

The bill supplementary to an act, entitled "An act to incorporate a company for making certain turnpike roads within the District of Columbia," was read a third time, and passed.

On motion by Mr. MORROW, the consideration of the engrossed bill, making appropriation for the construction of roads and canals, was further postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish a system of navigation for the United States; and, on motion by Mr. DANA, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion, and to repeal the laws heretofore passed for those purposes, together with the proposed amendments; and, on motion by Mr. MASON, of Virginia, the further consideration thereof was postponed until to-morrow.

On motion by Mr. DANA,

Resolved, That the Secretary for the Department of War be directed to lay before the Senate a statement of the sums expended for the purchase or manufacture of arms and military equipments for the militia, in pursuance of the act of the 23d of April, 1808, entitled "An act making provision for arming and equipping the whole body of the militia of the United States;" and also a statement of the arms and military equipments which have been so provided, and of the distribution thereof, in execution of the same act.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to ascertain and establish the western boundary of the tract reserved for satisfying the military bounties allowed to the officers and soldiers of the Virginia line on Continental Establishment; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the report of the committee, to whom was referred the resolution relating to the claims of the officers and soldiers of the Virginia line on State and Continental Establishment, for bounty lands; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the Secretary of the Treasury to subscribe, in behalf of the United States, for — shares in the

capital stock of the Chesapeake and Delaware Canal Company; and, on motion by Mr. HORSEY, the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the petition of Catharine Robertson; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the first Monday in June next.

Mr. BARBOUR, from the Committee on Military Affairs, to whom was referred the bill entitled "An act making further provision for military services during the late war, and for other purposes," reported it with amendments; which were read.

The Senate resumed the consideration of the motion made on the 2d instant, relative to the number of the inhabitants of the Mississippi and Indiana Territories; which was amended, and agreed to as follows:

Resolved, That the committees to whom are referred the bills for the admission of the Indiana and Mississippi Territories into the Union as new States, be, and hereby are, instructed to ascertain and report to the Senate the actual number of inhabitants in the said Territories respectively, distinguishing the number of free persons from the number of all other persons, and the number of persons on the east side of the Tombigbee river, in the Mississippi Territory, from those on the west side of the river.

Mr. CAMPBELL, from the Committee on Finance and an Uniform National Currency, to whom was referred the bill entitled "An act for the relief of Robert Kidd," reported it without amendment.

Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act for the relief of Henry Malcolm," reported it without amendment.

Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act to amend an act, entitled 'An act for the relief of Edward Hallowell,'" reported it without amendment.

Mr. KING, from the committee appointed on the subject, submitted the following motion for consideration:

Resolved, That the Senate approve of the alterations suggested for the enlargement of the Senate room, and the better arrangement of the offices of the Senate; and that the plan of the proposed alterations drawn by the surveyor of the public buildings, together with a copy of this resolution, be transmitted to the President of the United States.

BANK OF THE UNITED STATES.

The amendments to the bill, entitled "An act to incorporate the subscribers to the Bank of the United States," having been reported by the committee correctly engrossed, the bill was read a third time, as amended; and, the blanks having been filled, the bill was further amended by unanimous consent.

On the question, "Shall this bill pass, as

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amended?" it was determined in the affirmative—yeas 22, nays 12, as follows:

YEAS—Messrs. Barbour, Barry, Brown, Campbell, Chace, Condit, Daggett, Fromentin, Harper, Horsey, Howell, Hunter, Lacock, Mason of Virginia, Morrow, Roberts, Talbot, Tait, Taylor, Turner, Varnum, and Williams.

NAYS—Messrs. Dana, Gaillard, Goldsborough, Gore, King, Macon, Mason of New Hampshire, Ruggles, Sanford, Tichenor, Wells, and Wilson.

Resolved, That this bill pass, with amendments. [Messrs. BIBB and THOMPSON, the only absentees, are understood to have been detained from the Senate by ill health; the former of these gentlemen being seriously indisposed.]

THURSDAY, April 4.

Mr. BROWN, from the committee to whom the subject was referred, reported a bill for adjusting the claims to land, and establishing a land office for the districts of land lying east of the Mississippi river, and island of New Orleans; and the bill was read; and passed to the second reading.

Mr. CAMPBELL, from the Committee on Finance and an Uniform National Currency, to whom was referred the bill entitled "An act to abolish the existing duties on spirits distilled within the United States, and to lay other duties in lieu of those at present imposed on licenses to distillers of spirituous liquors," reported it with an amendment.

The bill entitled "An act making appropriations for the support of Government for the year 1816," was read the second time, and referred to a select committee; and Messrs. LACOCK, DAGGETT, and MORROW, were appointed the committee.

The bill entitled "An act continuing the salaries of certain officers of Government," was read the second time, and referred to the committee last mentioned.

The bill entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year 1816," was read the second time, and referred to the Committee on Military Affairs.

The bill entitled "An act making appropriations for the support of the Navy of the United States, for the year 1816," was read the second time, and referred to the Committee on Naval Affairs.

The bill entitled "An act to increase the pensions of invalids in certain cases, for the relief of invalids of the militia, and for the appointment of pension agents in those States where there is no commissioner of loans," was read the second time, and referred to the Committee on the Militia of the United States.

The bill to increase the compensation of the superintendents of the manufactories of arms at Springfield and Harper's Ferry, was read the second time.

The bill concerning the annual sum appropriated for arming and equipping the militia, was read the second time.

Mr. MORROW, from the committee to whom was referred the bill, entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," reported it with amendments; which were read.

Mr. MORROW, from the same committee, communicated a certified statement of the census of the Indiana Territory.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report from the Secretary of the Treasury, complying with their resolutions of the 26th March last.

JAMES MADISON.

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The Message and report, therein mentioned, were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion, and to repeal the laws heretofore passed for those purposes, together with the proposed amendments; and, after progress, on motion by Mr. BROWN, the further consideration thereof was postponed until the fourth Monday in July next.

The Senate resumed the report of the select committee, relating to the claims of the officers and soldiers of the Virginia line, on State and Continental Establishment, for bounty lands; and on motion, by Mr. BARBOUR, the consideration thereof was further postponed until this day fortnight.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning certain advances made for the public service by the city of New York; and on motion, by Mr. BARBOUR, it was referred to the Committee on Military Affairs, "with instructions to inquire whether any, and, if any, what provisions ought to be made by law for payment of damages sustained by persons on whose lands military works have been constructed during the late war, either under the authority of any officer of the United States, or that of any State, corporation, or otherwise, not hitherto provided for."

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the District of Columbia; and on motion, by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill dividing the State of Pennsylvania into two judicial districts.

On motion by Mr. MASON, of New Hampshire, to strike out the first section of the bill, the question was lost, the Senate being equally divided yeas 15, nays 15, as follows:

YEAS—Messrs. Daggett, Goldsborough, Gore, Harper, Hunter, King, Macon, Mason, of New Hampshire, Talbot, Taylor, Thompson, Tichenor, Turner, Varnum, and Wells.

time, and decided in the affirmative—yeas 82, nays 61, as follows :

YEAS—Messrs. Adgate, Alexander, Atherton, Baer, Bateman, Betts, Boss, Bradbury, Brown, Calhoun, Cannon, Champion, Chappell, Cilley, Clarke of North Carolina, Clark of Kentucky, Clendennin, Comstock, Condict, Conner, Creighton, Crocheron, Cuthbert, Edwards, Forney, Forsyth, Gholson, Grosvenor, Hawes, Henderson, Huger, Hulbert, Hungerford, Ingam, Irving of New York, Jackson, Jewett, Kerr of Virginia, King of North Carolina, Langdon, Love, Lowndes, Lumpkin, Maclay, Mason, McCoy, McKee, Middleton, Moore, Moseley, Murfree, Nelson of Massachusetts, Noyes, Pickens, Pinkney, Piper, Robertson, Sharpe, Smith of Maryland, Smith of Virginia, Southard, Sturges, Taul, Taylor of New York, Taylor of South Carolina, Telfair, Thomas, Throop, Townsend, Tucker, Ward of New Jersey, Wendover, Wheaton, Wilde, Wilkins, Williams, Willoughby, William Wilson, Woodward, Wright, Yancey, and Yates.

NAYS—Messrs. Baker, Barbour, Bassett, Blount, Breckenridge, Burnside, Cady, Caldwell, Clayton, Clopton, Cooper, Crawford, Culpeper, Darlington, Davenport, Desha, Gaston, Gold, Goldsborough, Goodwyn, Hahn, Hale, Hall, Hanson, Hardin, Herbert, Hopkinson, Johnson of Virginia, Kent, Law, Lewis, Lovett, Lytle, Lyon, Marsh, Mayrant, McLean of Kentucky, McLean of Ohio, Milnor, Newton, Ormsby, Pickering, Pitkin, Randolph, Reed, Root, Ross, Ruggles, Sergeant, Savage, Smith of Pennsylvania, Stanford, Stearns, Strong, Tallmadge, Vose, Wallace, Ward of Massachusetts, Webster, Whiteside, and Wilcox.

The SPEAKER laid before the House two Messages from the President of the United States, one enclosing the documents respecting the public accounts of Colonel James Thomas, called for by the House; and the other a report respecting the Cumberland road; which being severally referred, the House adjourned.

THURSDAY, March 14.

Mr. McLEAN, of Ohio, presented a resolution of the General Assembly of the State of Ohio, requesting that measures may be taken for defining the legal exposition of the conflicting claims to an exclusive use of the late improvements on steamboat navigation, and whether recent improvements made to a discovery that has long been in use can entitle the discoverer to the benefit of a patent agreeably to the Constitution of the United States.—Referred to the Committee on the Judiciary.

Mr. CREIGHTON, from the Committee on the Public Lands, reported a bill for the relief of William Crawford and Frederick Bates; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill for altering the times of holding the circuit and district courts of the district of Vermont; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. MIDDLETON, from the Committee on Naval Affairs, reported the bill from the Senate "in

addition to an act in relation to the navy pension fund," without amendment; and the bill was committed to a Committee of the Whole.

The SPEAKER laid before the House a supplemental report of the Secretary of War, in relation to invalid pensions; which was referred to the Committee on Pensions and Revolutionary Claims.

The bill from the Senate "for the relief of George Rossier, and others," was read twice, and committed to the Committee of Ways and Means.

MONUMENT TO WASHINGTON.

Mr. HUGER, from the joint committee appointed on the 16th ultimo, respecting the remains of the late General GEORGE WASHINGTON, made a report containing joint resolutions providing for the erection of a monument to commemorate the virtues of GEORGE WASHINGTON; which were read, and referred to a Committee of the whole House on Saturday next. The report is as follows:

That they have carefully and attentively examined into the subject referred to them, and submit to the consideration of their respective Houses the following resolutions:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That, in pursuance of the resolution of Congress of the 24th of December, 1799, a marble monument be erected by the United States to commemorate the military, political, and private virtues of GEORGE WASHINGTON.

That the receptacle for his remains be prepared in the foundation of the Capitol, and that the monument be placed over the same, and in the centre of the great hall of the Capitol.

That, on the four sides of the monument, he be represented—

As the defender of his country against the French and Indians in the war before the Revolution.

As the protector of her rights against British invasion, and the Captain of her Armies in the war of independence.

As the first President of the United States wisely administering the public affairs during eight years of peace, other nations being engaged in war.

As a private citizen voluntarily retired from public office, and engaged in the employments of agriculture.

And be it further resolved, That the President of the United States be, and is hereby, authorized to take measures to carry the foregoing resolution into execution.

NATIONAL BANK.

The bill to incorporate the subscribers to the Bank of the United States, was read a third time; and the question stated on the passage of the bill.

Mr. WEBSTER rose to oppose it, declaring that he had long held, and still continued to hold, the opinion that a bank formed upon proper principles would be good for the country, and as a proof of his sincerity, he expressed his wish that the House, by agreeing to strike out the objectionable part of the bill, would justify him in agreeing to the present one. He said, he had two objections to the bill, the first, the unnecessary magnitude

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of the capital; the other, the vesting Government with the appointment of five of the directors. Of the first, he said, that it was unprecedented; such a capital had never in any country been given to any bank, and he considered that alone as sufficient cause for rejecting the bill, unless its advocates could demonstrate that it was necessary. Besides, the object of the bill being to restore the currency of the country to a proper condition, the remedy necessary was not one to work far hence; it must be speedy, for which this capital would not answer, as it was to come in, only in reversion; it was unalienable, either this year or in the next: and he challenged gentlemen to show that the magnitude of the capital had any necessary connexion with the great object of the bill. Besides, he contended that great danger was to be apprehended from a large capital. He reminded the House that the very gentlemen who were the advocates of this capital, were the same who opposed the old United States Bank, upon the grounds that it would introduce great foreign influence; and insisted that Jay's Treaty was carried by it. Yet the capital of that bank was ten millions only—how then could they now insist upon a capital of thirty-five millions? If then there was danger in one, there was, of course, great danger in the other. The worst feature in this capital he considered to be its connexion with the influence given to Government over the direction of the bank; and to throw a light upon his intention, he said, that if any means could be adopted to take security against that undue influence, he would even now vote for the bill. That, to be useful, a bank must be independent of Government, had long been a maxim—in our own country that maxim was first established by the report of Hamilton, and was ratified by Washington, and the existence and conduct of the United States Bank for twenty-five years confirmed and proved the correctness of the opinion. What, he asked, could be the object of the provision? Gentlemen said it was not to control the bank—and in saying so, he contended that they gave up the argument; for, as to all necessary knowledge of the transactions of the bank that was sufficiently provided for by another provision of the bill. But if not for the purpose of exercising an undue influence in Government over the directors, he asked, what could they want it for. Mr. W. spoke at considerable length.

Mr. GROSVENOR supported the bill, and insisted that the power of appointing directors could not give to Government the influence which Mr. WEBSTER apprehended. Whatever influence those directors created could only be exercised by being backed with the deposits of Government—take away those deposits and the directors were

brought into use, the rest would be inoperative and harmless. For his own part Mr. G. should not be afraid of a capital of a hundred millions; for he should deprecate as much as Mr. WEBSTER a real Government bank, because it would not answer the object for which this was intended—for which purpose it must be entirely independent; and he endeavored to prove, by the state of the New York banks, that the Government having a share in the direction was perfectly innocuous.

Mr. HULBERT spoke in favor of the bill.

Mr. CADY spoke as follows:

Mr. Speaker: It has been said, that the greatest evil with which our country is now afflicted, arises from the conduct of the State banks in refusing to pay their debts; and that the hope of gain will deter them for ever resuming a correct course of conduct, unless the Government shall compel them to redeem their bills in specie. And sir, the friends of the bill upon your table insist that it will furnish a remedy for the evil which threatens ruin to our country; that it is absolutely necessary that that bill should become a law in order to enable the Government to coerce the State banks to alter their conduct. But, sir, what security have we that this great National Bank with a capital of thirty-five millions of dollars will, if incorporated, be an engine in the hands of the Government, by which the State banks can be chastised for their past transgressions, and hereafter be constrained to pursue a different course? What security have we that the National Bank will not pursue the same conduct of which we complain in the State banks? It has been truly said, that they are governed by motives of interest, and will never voluntarily redeem their bills. Will not the National Bank be governed by the same motives; will it not pursue that course which promises the greatest profit? Can you hope sir, that the magnitude of its capital will make it honest? It would be as reasonable to calculate that the ferocity of a lion would be decreased as his size was increased. What, sir, are the provisions incorporated in that bill, by which the instinct of the National Bank is to be controlled and the bank compelled to pay its notes? There is but one single provision calculated to have that effect, but what may be found in the charter of every bank in the Union; and that provision, considering the city in which the bank is to be placed, furnishes no security that the National Bank will be more punctual in paying its debts than the State banks. The provision to which I allude is this, that the bank is made liable to pay an interest of twelve per cent. per annum on such of its bills as shall be presented for payment, and payment be refused.

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vania, where the plaintiff must pay all, or nearly all, his own costs. Had the bank been placed in New York, where defendants are obliged to pay the costs of compelling them to do justice, the amount of such costs, and the twelve per cent. interest, would have some influence in inducing the bank to pay its debts. But being placed in Philadelphia the bank will feel protected against its creditors; it will know that no one of its creditors, for any ordinary sum, can prosecute without submitting to a loss. Sir, the bills of this bank are to be circulated in every part of the United States, and no person who resides out of the State of Pennsylvania would think of prosecuting the bank, while he could dispose of its bills for any reasonable discount. We have then no security that the National Bank, if incorporated, will pay its notes, but the probability is, that it will at once adopt the practice of the State banks, and thus render the evils of which we complain almost incurable.

The Secretary of the Treasury in his annual report to us, expressly states in relation to a national currency, as follows: "It is nevertheless 'with the State banks that the measure for restoring the national currency, of gold and silver, must originate; for, until their issues of paper be reduced, their specie capitals be reinstated, and their specie operations be commenced, there will be neither room, nor employment, nor safety for the introduction of the precious metals.'"

It is then the avowed and deliberate opinion of the Secretary of the Treasury, who controls the financial concerns of this country, that this National Bank cannot go into operation and circulate the precious metals with safety, till the State banks resume specie payments. And yet gentlemen on this floor tell us that this National Bank can and must go into operation in order to compel the State banks to pay specie. How can the opinion of the learned Secretary and the declarations of these honorable gentlemen be reconciled? His opinion is, that the diseased state of the national currency must be cured before the National Bank can safely go into operation. They insist that it must go into operation in order to produce that cure. How, sir, is this National Bank either to flatter or compel the State banks to pay specie? To be of any service in this great work of reformation, it must, contrary to the opinion of the Secretary of the Treasury, go into operation surrounded by banks which do not and will not pay specie. It must be able to issue its bills and redeem them with specie. But, sir, from whence is this National Bank to obtain its specie capital of seven millions of dollars? We have been told that in June last all the banks in the United States had but fifteen millions of dollars in specie.

sure to enable them to redeem their bills in specie? If the patient be debilitated and bled to fainting, would you not suspect the sanity of the physician who should insist that more bleeding was necessary, and was the only means of restoring to the patient a full pulse and strength? Sir, the directors of the State banks have wisdom enough to perceive that this great national engine, created to chastise them, will not soon be able to inflict a blow, unless they impart to it strength by giving it their specie. Pass the bill, then, upon your table, and you furnish the State banks with an apology for keeping their vaults shut, to prevent their specie from giving strength to the National Bank. There is, therefore, no hope that the banks which have hitherto refused to pay specie will soon resume such payments. No; self-preservation will dictate to them a different course. But, sir, there are other grounds on which I object to the bill under consideration. This bill gives to the National Bank a power to establish branches, without limit as to number, in every part of the United States. This appears to me an unnecessary and dangerous power. If we at first give to this bank the power to establish one branch in each State, it is enough to answer all the purposes of Government in the collection and distribution of its revenue. If experience shall show that the interests of the country require that this bank should have the power to establish more than one branch in any one State, Congress can hereafter grant to banks that power; but to grant to the bank at this time the power to establish as many branches as its interests may within twenty years dictate, is extremely unwise. No man can foresee the changes which may take place, and the improvements which may be made in this country in the next twenty years. Should this bank ever sell the Government stock, which at first is to form three-fourths of its capital, so as to have in its vaults a specie capital of thirty-five millions of dollars, it will then be able to control all the moneyed operations in this country; its interests and its avarice will dictate to it the establishment of branches in every commercial town in the United States, where banking capital can be used to advantage. I am unwilling this or any other bank should have this power over the State of New York; that State once had the misfortune to have within its bosom a bank claiming such a power. That State, sir, contains many commercial towns in which banking may be carried on profitably; and towns of that character will probably be very much increased, both in number and importance, during the time this bank is to exist; and I will not aid in giving to any class of men who already have accumulated sufficient wealth to become the proprietors of the National

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ment claims more than this for its favorite bankers, the claim is unreasonable and ought not to be sanctioned.

There is another provision in this bill to which I am opposed. It is that, sir, which gives to the President and Senate of the United States power to appoint five of the directors of the bank. The effect of that provision will be to deter prudent, cautious capitalists from investing their funds in this bank; such men choose to manage their own business in their own way, or to have it managed by agents chosen by themselves, and will not very willingly subject their money to the control or interference of governmental agents. Suppose, sir, we were passing a law to sell a valuable tobacco plantation, but should reserve to the Government the right of appointing the overseer of that plantation: What prudent, cautious capitalist would purchase the plantation thus offered for sale? No man in his senses would make the purchase. Would it be said that the President of the United States, with the aid of the Senate, could not appoint a fit overseer for a tobacco plantation? Certainly, for he is as competent to make such appointment as to appoint the directors of a bank. Yet, sir, no prudent planter would purchase your plantation, unless he was at liberty to appoint the overseer. So, few cautious men will purchase stock in a bank in which the Government are, in any manner, to have an influence in the direction. Men, however, of daring enterprise, who are now loaded with Government stock, may take stock in the proposed bank, under an expectation that they can sell bank stock to more profit than they can sell the stock they now have. In the hands of such men, I do not believe a National Bank will be a national blessing.

Mr. CLOPTON said, that he did not intend to detain the House; it was utterly out of his power to do so, if he were ever so willing; the situation of his health would not admit of it: but that he rose merely to enter his protest, in as solemn a manner as he was able, against the doctrine advanced by the gentleman from Maryland (Mr. WRIGHT)—a doctrine which, he believed, had diffused itself extensively among members of this House—that is, that acts of Congress, and the execution of them, determined and settled the Constitutional question as to the right of future legislation upon the objects of those acts, so that when the subject-matter of any former act, which had been regularly executed, should be proposed to this Legislature as the object of a new act, the question whether it be Constitutional or not, was precluded from any further examination, and the Legislature bound to consider the act as authorized by the Constitution. This doctrine he ab-

advanced, this, in my view, is one of the most pernicious.

Are gentlemen, said he, whose fancies are tickled with this new idea, apprized of what may be the consequence of deciding and settling Constitutional questions by this standard? Do they not see that a few acts of Congress, affecting the great essential principles of personal liberty and personal property, might destroy everything valuable in the Constitution? We have, said he, already witnessed evil times, and evil times may again occur (I wish they may not be fast approaching) when such acts may be passed. According to this doctrine, the freedom of the press is already gone, for, by this doctrine, you declare that you have a right to revive the Sedition act whenever you please. That act had all the public recognitions spoken of as sanctioning and confirming the validity of the bank act. It was enacted in due form of legislation, carried fully into execution, as a valid law of the land, by judges and by juries, on many grievous and oppressive prosecutions; some of its victims heavily fined, and subjected to long and severe imprisonment; while the whole community submitted to the progress of its operation; and, though a large proportion of the people in some sections of the Union denounced it with expressions of abhorrence, at the same time as large a proportion, perhaps, in some other sections, made no objection to it. Thus it continued in force and operation until the expiration of the term for which it was enacted.

I have said, sir, observed Mr. C., and I feel myself justified in making the declaration, that, according to this doctrine, the freedom of the press is already gone; for, if this doctrine be correct, the Constitutional authority of Congress to revive the Sedition act, or pass a similar one, is established, and the free use of the press is every moment at the mercy of the Legislature. The right no longer exists, if the use can be taken away or restrained, *ad libitum*, by an act of the Legislature, and if that act is authorized by the Constitution. But, sir, continued he, the doctrine is not correct—it is grossly incorrect—it is an horrible political heresy. It is equally incorrect, equally heretical, applied to this bill.

The consequence of the establishment of such a doctrine as this, said Mr. C., would be that the Constitution itself, the supreme rule, by which all Legislatures acting under it should be governed, and which they are sworn to support, in making their laws, would, in a process of time, be superseded and rendered altogether a dead letter by a series of the acts of those Legislatures; nor would it require that the series be a very long one. What a monstrous doctrine! he ex-

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Mississippi Land Claims.

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before them. He had wished to present to the House his views, extensively, on this important subject; but he found himself unable to sustain the fatigue of going through one-twentieth part of the remarks he wished to make; the few he had made in protesting against the shocking, destructive doctrine, just alluded to, had almost entirely exhausted him, and nearly deprived him of the power of respiration.

Messrs. STANFORD, HANSON, and PICKERING, also spoke against the bill, and Mr. CALHOUN concluded the debate by a few remarks in favor of it.

The question was loudly called for during the latter part of the sitting; and, being taken at a late hour, the vote on the passage of the bill was—yeas 80, nays 71, as follows:

YEAS—Messrs. Adgate, Alexander, Atherton, Baer, Betts, Boss, Bradbury, Brown, Calhoun, Cannon, Champion, Chappell, Clarke of N. C., Clark of Ky., Clendennin, Comstock, Conduct, Conner, Creighton, Crocheron, Cuthbert, Edwards, Forney, Forsyth, Gholson, Griffin, Grosvenor, Hawes, Henderson, Huger, Hulbert, Hungerford, Ingham, Irving of New York, Jackson, Jewett, Kerr of Va., King of N. C., Love, Lowndes, Lumpkin, Maclay, Mason, McCoy, McKee, Middleton, Moore, Moseley, Murfree, Nelson of Massachusetts, Parris, Pickens, Pinkney, Piper, Robertson, Sharpe, Smith of Maryland, Smith of Virginia, Southard, Taul, Taylor of New York, Taylor of South Carolina, Telfair, Thomas, Throop, Townsend, Tucker, Ward of New Jersey, Wendover, Wheaton, Wilde, Wilkin, Williams, Willoughby, Thomas Wilson, William Wilson, Woodward, Wright, Yancey, and Yates.

NAYS—Messrs. Baker, Barbour, Bassett, Bennett, Birdsall, Blount, Breckenridge, Burnside, Burwell, Cady, Caldwell, Cilley, Clayton, Clopton, Cooper, Crawford, Culpeper, Darlington, Davenport, Desha, Gaston, Gold, Goldsborough, Goodwyn, Hahn, Hale, Hall, Hanson, Hardin, Herbert, Hopkinson, Johnson of Virginia, Kent, Langdon, Law, Lewis, Lovett, Lyle, Lyon, Marsh, Mayrant, McLean of Kentucky, McLean of Ohio, Milnor, Newton, Noyes, Ormsby, Pickering, Pitkin, Randolph, Reed, Root, Ross, Ruggles, Sergeant, Savage, Sheffey, Smith of Pennsylvania, Stanford, Stearns, Strong, Sturges, Taggart, Tallmadge, Vose, Wallace, Ward of Massachusetts, Ward of New York, Webster, Whiteside, and Wilcox.

FRIDAY, March 15.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1816; which was read twice, and committed to the Committee of the Whole.

Mr. YANCEY, from the Committee of Claims, made a report on the petition of R. S. Reed and

was read twice, and committed to a Committee of the Whole.

An engrossed bill, entitled "An act to alter the times of holding the circuit courts of the United States for the district of Vermont," was read the third time, and passed.

The House took up the resolution submitted on the 28th ultimo, by Mr. CONDUCT, and the amendment proposed thereto by Mr. NELSON, of Virginia; whereupon, Mr. NELSON withdrew his said amendment.

Mr. CONDUCT then modified his said resolution so as to read—

"Resolved, That for the residue of the session the stated hour of meeting of this House shall be ten o'clock in the morning."

On the question to agree to the resolution, it was determined in the negative.

The bill for the relief of John Delafield occupied much time in Committee of the Whole, and the Committee having risen, was refused leave to sit again. The bill lies on the table.

The bill making further provision for settling the claims to lands in the Territory of Illinois, was considered, and ordered to be engrossed for a third reading.

The bill for the relief of certain claimants to lands in the district of Vincennes, was also considered, and engrossed for a third reading.

The House resolved itself into a Committee of the Whole on the bill for the relief of John T. David. The bill was reported without amendment, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill for the relief of Erastus Loomis. The bill was reported without amendment, and ordered to be engrossed, and read a third time to-morrow.

SATURDAY, March 16.

On motion of Mr. FORNEY, a select committee of five members was appointed to inquire into the expediency of increasing the salary of the Clerk of the House of Representatives. Messrs. FORNEY, PITKIN, CLARK of Kentucky, GASTON, and JACKSON, were appointed the said committee.

An engrossed bill, entitled "An act for the relief of Erastus Loomis," was read the third time, and passed.

An engrossed bill, entitled "An act making further provision for settling claims to land in the Territory of Illinois," was read a third time, and ordered to lie on the table.

An engrossed bill, entitled "An act for the relief of certain claimants to lands in the district of Vincennes," was read the third time, and passed.

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National Bank.

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ants, Randolph, Roane, Root, Ross, Smith of Virginia, Tate, Taylor of So. Carolina, Telfair, Thomas, Vose, Wilcox, Wilde, and Yancey.

NAYS—Messrs. Adgate, Alexander, Atherton, Baker, Bateman, Bennett, Betts, Birdsall, Boss, Brooks, Cady, Calhoun, Chappell, Chipman, Clendennin, Comstock, Conner, Crawford, Creighton, Crocheron, Darlington, Davenport, Desha, Gold, Griffin, Hahn, Hammond, Hawes, Henderson, Hopkinson, Hulbert, Ingham, Irwin of Pennsylvania, Jackson, Johnson of Kentucky, Kent, Langdon, Lyle, Maclay, Marsh, Mason, Mayrant, McCoy, McLean of Kentucky, Milnor, Newton, Ormsby, Parris, Piper, Pitkin, Powell, Ruggles, Sergeant, Savage, Schenck, Sharpe, Smith of Pennsylvania, Smith of Maryland, Southard, Strong, Sturges, Taul, Throop, Townsend, Ward of New York, Ward of New Jersey, Wendover, Wheaton, Whiteside, Wilkin, Willoughby, Thomas Wilson, William Wilson, Woodward, Wright, and Yates.

Mr. Ross then moved further to amend the said bill, by striking out from the fifty-sixth line of the first section (being the first line of the fifth clause) the word "thirty," and to insert "twenty;" when the House adjourned.

FRIDAY, April 5.

On motion of Mr. BETTS, the Committee on the Judiciary were instructed to inquire into the expediency of establishing an uniform mode of trial and punishment for all crimes and offences properly cognizable by the courts of the United States.

NATIONAL BANK.

Mr. CALHOUN moved that the House proceed to consider the amendments of the Senate to the National Bank bill. On putting the question, however, it was found that a quorum of members were not present.

Mr. RANDOLPH, with the view of producing a more punctual attendance hereafter, moved that the House adjourn.—Negatived.

A quorum soon after appearing, Mr. RANDOLPH moved that the rule for convening at 10 o'clock, be rescinded, that the hour of 11 might be again adopted; which was also disagreed to.—Ayes 40.

The House then, by a vote of 55 to 45 agreed to consider the amendments of the Senate to the bank bill.

Mr. MILNOR, because of the thinness of the House and the importance of the subject; further, because he understood that the Committee on the National Currency were on the point of reporting a very important bill, which might materially affect the decision on the bank question, &c., moved that the consideration thereof be postponed to Monday next.

Mr. CALHOUN hoped the motion would not prevail. The reasons for it he did not think suffi-

cient. The gentleman insisted on the propriety of first being in possession of the report referred to, the motion to postpone the subject to Monday, was negatived—ayes 43, noes 66.

After the amendments of the Senate were read, Mr. RANDOLPH moved that the bill and amendments be indefinitely postponed, avowedly for the purpose of destroying the bill. Mr. R. supported his motion, by adverting to the small number of members present, and the impropriety of passing, by a screwed-up, strained, and costive majority, so important a measure, at the end of a session, when the members were worn down and exhausted by a daily and long attention to business; a measure, which, in a time of war and of great public emergency, could not be forced through the House; a measure so deeply involving the future welfare, and which was to give a color and character to the future destiny of this country; a measure which, if it and another, (the tariff) should pass into laws, the present session would be looked back to as the most disastrous since the commencement of the Republic; and which, much as he deprecated war, he would prefer war itself to either of them. Mr. R. then proceeded to argue against the bill as unconstitutional, inexpedient, and dangerous.

Mr. CALHOUN said, it certainly could not be expected of him to enter into so untimely and unnecessary a discussion of the general question. The bill had been before the House three weeks, when it was maturely considered; it was sent to the Senate; and now comes back with a few unimportant amendments, on which the House had to pass. It was unfair to say, that the bill was urged through the House improperly; and the gentleman was mistaken also in stating, that a bank bill could not be passed at the last session; it was notorious that a bill to establish a National Bank did pass at the last session, and was rejected by the President of the United States.

Mr. GROSVENOR did not know what the gentleman meant by a hard-screwed majority. He would venture to say that the House had advanced on this subject with as much deliberation and calmness as they ever did on any public matter whatever; the bill was not pressed through improperly. The pressure talked of by the gentleman was in fact directly the other way. With two hundred State institutions bearing down on the members of this House, it required something more than common firmness, it required boldness to urge the bill. This influence would every day become stronger, and if the subject was deferred to the next session its passage would be impossible. He had never since he came to Congress known a bill passed with more ample discussion; the gentleman from Virginia had himself taken

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stitutional question; and his belief of its necessity to the safety of the country. The Constitutional question had been long since put to sleep by the repeated decisions of all the proper authorities, after mature reflection, and ought never again to be revived.

Mr. RANDOLPH replied to Mr. GROSVENOR, and enforced his Constitutional objections to the bill, in which he was borne out by the decision of Congress in refusing to renew the charter of the old bank, which decision was grounded on the want of Constitutional power. He adverted also, in support of his opinion, to the instructions from the Legislatures of Virginia and Kentucky, to their Senators, to vote against the old bank; which instructions were given on the ground of that institution being unconstitutional. Mr. R. declared himself the holder of no stock whatever, except live stock, and had determined never to own any; but if this bill passed, he would not only be a stockholder to the utmost of his power, but would advise every man, over whom he had any influence, to do the same, because it was the creation of a great privileged order of the most hateful kind to his feelings, and because he would rather be the master than the slave. If he must have a master, let him be one with epaulettes, something that he could fear and respect, something that he could look up to—but not a master with a quill behind his ear.

Mr. WEBSTER said this was a subject on which a great change of opinion had taken place on both sides of the House; and animadverted on what he called a compromise of principle on a great moneyed institution; and the desertion, not only of principles but of friends, which had characterized the proceedings on this bill. He then spoke some time against the bill, which he pointedly condemned, on account of the participation of the Government in its direction and management. If, said he, instead of the little scraps of amendments which were very well as far as they went, but very trifling, and only served to cover the vice and deformity of the scheme, the Senate had returned the bill healthy, in all the beauty of the original institution, it would have passed through the House swifter than the current of the Potomac.

Mr. HULBERT replied to Mr. WEBSTER, in defence of the bill and of the course he had pursued in relation to it. He disavowed any compromise of opinion either in the principle or the details of the bill. He had sought the best lights to guide him in deciding on this bill; he had listened to the gentleman from New Hampshire as one who would, if any could, point out its defects and convince him of its danger; but the only objection he heard from that gentleman was the Govern-

ment direction. That objection, Mr. H. said, which had been denounced against those who did not on this subject go with the majority of that party in the House opposed to the Administration. He disclaimed any such influence over his public conduct; he came here to act according to his own sincere convictions, and should despise himself if he could submit to act as this or that side of the House pointed its finger. Mr. H. concluded by declaring his support of the bank bill to be disinterested; he expected to hold not a cent's worth of its stock, as he was not able so to do—but the bank he believed would be a great benefit to the country.

Mr. WRIGHT said he was one of those who had aided in putting down the old bank, and was sure that, a thousand years after he was buried, his vote on that occasion would be a monumental proof of his worth and his regard for the best interests of his country. He opposed it on the ground of inexpediency as well as unconstitutionality; but the Supreme Judicial tribunal had decided on its constitutionality by often recognising it as a party, and it was now too late to insist on the objection. Mr. W. argued some time in favor of the bill; and, adverting to Mr. RANDOLPH's epithet that the bank was a scheme of public robbery, and his declared intention to hold as much of its stock as he could, Mr. W. said his friend from Virginia ought to recollect that the receiver was always considered as bad as the thief.

Mr. HARDIN next delivered at length his views of the question; objecting to the plan of the bank as embraced in this bill, on Constitutional grounds as well as from a belief of its inexpediency. He was a member of the Kentucky Legislature at the time, and was one of those who had instructed its Senators to vote against the old bank because of its unconstitutionality, and his opinion remained unchanged, though he perceived some of those who had acted with him in the case alluded to, had changed their opinion and were now supporters of the bank.

Mr. SHARPE spoke in reply to the remarks of Mr. HARDIN, respecting the instructions from the Kentucky Legislature, and justified his opinions on the subject of the bank.

Mr. SOUTHARD made a few remarks, principally to show that it was not on the ground of unconstitutionality that Congress had refused to renew the charter of the old bank, and that it had been recognised by the courts.

Mr. GROSVENOR replied to the observations of Mr. WEBSTER in a decided manner. He denied the right of that gentleman to lecture other members of the House for the course which their duty prescribed to them. As to the changes of principle, of which the gentleman had spoken, Mr. G. said he did not mean to inquire whether

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had something of that old puritanical principle in him, which objected to being drilled in to vote in this or that manner, on whatever any gentleman chose to call a question of principle. Why did the gentleman call the power of appointment of five directors given to the Government, a question of principle? The question is, whether one-fifth of the direction gives the Government a control over the bank? I say no, said Mr. G.—the gentleman says yes, and saying so, this must be a question of principle. That, Mr. G. said, appeared to be the course of the gentleman's argument—the force of which he denied. He showed, that in the State banks in New York, (not undertaking to say how it might be in New Hampshire,) such features had been incorporated, even whilst General Hamilton was in the full vigor of his life and influence, and it was done by his party too, &c. The gentleman has said this control would be a lever in the hands of the Government. It was a straw, Mr. G. said, instead of a lever, and could not move an eagle, much less five-and-thirty millions of dollars. When, even on this side of the House, did this feature become a question of principle? Mr. G. went on to show, that he had objected to the feature in question, and endeavored to procure it to be expunged; but he never considered it, nor had it been debated, but as a question of detail. All legislation, he proceeded to argue, was founded in the idea of mutual compromise as to modifications of details; and this clause, now so much objected to, could produce no possible injury to the people or to the Government. When and where did this clause grow into a principle? He could tell, he said, the way it travelled, and where it became a principle—not in the open face of day—he would not, however, here relate its history. It had not been a principle with him, and never should be. Mr. G. went on to say, that he had never heard a wish expressed from any side of the House, that the Government should have an absolute control over the operations of the bank, &c. When the discussion on this bill had been first opened, Mr. G. said, he had heard an able and eloquent speech of the gentleman from New Hampshire, on the subject; and that very speech, in which the evils of the present system were fully depicted, had convinced him of the expediency of the establishment of this bank, as better calculated than anything else to remedy the evil. The gentleman had concluded that address with saying, that if Congress rose without providing a proper remedy, they would deserve the execration of the nation. Mr. G. said he believed it; and believing, as he had fully delivered his opinion the other day, that there was no remedy but the bill on the table, he should certainly vote for it. Mr. G. made other remarks to show the correctness of this conclusion.

disclaimed any intention to dictate, &c. In regard to the feature of the bill which was the subject of discussion, Mr. W. said, he considered it a matter of principle, but attributed that opinion to the gentleman from New York no further than he had assumed the charge of a departure from principle to apply to himself. What is the matter of principle in this case? That control and influence over a great banking institution should not be possessed by the Government. The degree of that influence was not material—the principle remaining the same, be the influence more or less extensive. That principle was violated by this bill, which, he went on to say, could not be fairly compared with similar features in small banks in the State Governments. But, he added, every bank so constructed in the United States had failed to answer the purposes for which it was instituted, and was at this moment in the daily habitual violation of its engagements. Could it be doubted, Mr. W. said, that with this capital, and this power over it, the Government could bring any man into terms, and make the banks act as they pleased? Gentlemen had done him honor in quoting his opinions in support of part of the bill; but he asked, if it was fair to quote a part of his opinions as authority, and abuse him for the rest? Mr. W. expressed the pleasure he had enjoyed in travelling with his friends here. If, in journeying with a friend, on a road pleasant and smooth, through verdant fields, they should arrive at a part rough and disagreeable; if they should encounter gloom, and darkness should overtake him; if then his friend chose to abandon him, and seek a road more agreeable, let him not, said he, complain, if I continue on the old one. To complain of him, Mr. W. said, the gentleman might as well complain of the fifty-nine others with whom he acted. The gentleman reminded him of the anecdote of the eleven obstinate jurors, and related a case, in which one juror informed the judge that there would be no difficulty in making up a verdict, if it were not for the other eleven, who were the most obstinate fellows he ever met with, and that he himself was the only candid and liberal man of the whole twelve. Mr. W. said he had shaken hands with the gentleman last session on this subject; if they had changed their opinions, they had not made the world the wiser for them. Mr. W. said, though young, he found that he possessed antiquated notions; and that, to be useful, he ought to have been with generations that had gone by.

Mr. HULBERT said, until the gentleman could show himself divested of the frailties of human nature, he ought not to complain that a part only of his opinions were quoted. Mr. H. reminded the gentleman of an authority with which he doubtless was well acquainted; the learned Coke,

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(Mr. GROSVENOR) had made a speech which perfectly satisfied him of the excellence of the bank. The gentleman from New Hampshire (Mr. WEBSTER) had at first made the amount of capital an all-important, a fatal error; soon afterwards he came into the House, and declared that the government of the bank was a *sine qua non*, and for that would compromise his other objections. [Mr. WEBSTER here denied that he had said so.] I do not, said Mr. H., pretend to repeat the gentleman's words, but I appeal to this honorable House, if the gentleman did not say that the government of the bank was a *sine qua non* with him, and, if that was given up, he would support the bill. I do not censure that declaration, said Mr. H.; the great charter under which we sit here, is the work of compromise; the South suffered itself to be taxed by the North, for its slave population; the spirit of compromise and concession pervades the whole instrument. What the gentleman meant by green fields, smooth roads, separation, &c., Mr. H. said he could not tell; but if he meant to attribute to him any improper influence, he disdained the insinuation; while he lived he would act on solid and independent principles. He came here first in a time of war, and, being a young member, expected to find the party to which he was proud to belong, as the saying is, sticking together; but he was surprised to find that gentleman often voting on this side and the other. Mr. H. said he would not part with friends, unless they thrust him off; but he would prefer parting with friends to parting with his conscience.

Mr. McKEE spoke in support of the bill; and asked the gentleman from New Hampshire, notwithstanding he would to-morrow oppose the suspension of the writ of habeas corpus, or any other unconstitutional measure, yet, if a case might not arise in which its suspension would be proper, and he consent to it? Mr. McK. argued, that there now existed a similar necessity for this bank. The Constitution had made it the duty of Congress to regulate the national currency, and remedy evils therein; and the proper inquiry now was, whether this bank was a proper measure to carry the Constitutional power into effect in this emergency? For this inquiry there was the most rational ground. No Treasury regulation would remedy the evil; the banks would laugh at any such regulation. Mr. McK. said he had voted for the old bank; that he had survived the storm in which his vote had involved him; experience had justified his conduct; and he hoped still to survive, should another storm succeed his present course.

Mr. SHEFFEY said, he was not scrupulous as to the power of the Government to establish this bank; but he did not admit that what was

thought it was necessary; and if he could be convinced that this bank would realize the expectation of its friends, he would give up his objections. But, without any disparagement to his friends, and notwithstanding the great talents of the gentleman (Mr. CALHOUN) who led the business, Mr. S. said the question had not been properly met and discussed. When they came to show how the promised remedy was to be produced, they dealt in generals; they did not demonstrate their assertions; it was here they failed, and would fail. Mr. S. then argued at some length, to show that the bank would not answer the purpose of correcting the evils in the currency, and that the expectation was visionary and delusive.

The question was then taken, and decided against postponement—yeas 67, nays 91, as follows:

YEAS—Messrs. Baker, Barbour, Bassett, Bennett, Birdsall, Breckenridge, Burnside, Cady, Caldwell, Cille, Clayton, Clopton, Cooper, Crawford, Culpeper, Darlington, Davenport, Desha, Glasgow, Goldsborough, Goodwyn, Hahn, Hale, Hammond, Hanson, Hardin, Heister, Herbert, Hopkinson, Johnson of Virginia, Johnson of Kentucky, Kent, Langdon, Law, Lewis, Lovett, Lyle, Lyon, Marsh, Mayrant, McLean of Kentucky, Milnor, Newton, Noyes, Pickering, Pitkin, Randolph, Reed, Roane, Root, Ross, Ruggles, Sergeant, Savage, Sheffey, Smith of Pennsylvania, Stearns, Strong, Stuart, Sturges, Taggart, Vose, Wallace, Ward of Massachusetts, Webster, Whiteside, and Wilcox.

NAYS—Messrs. Adgate, Alexander, Archer, Atherton, Baer, Bateman, Betts, Boss, Bradbury, Brooks, Brown, Bryan, Calhoun, Cannon, Champion, Chappell, Chipman, Clarke of North Carolina, Clendennin, Comstock, Condict, Connor, Creighton, Crocheron, Cuthbert, Edwards, Forney, Forsyth, Gaston, Gholson, Gold, Griffin, Grosvenor, Hawes, Henderson, Huger, Hulbert, Hungerford, Ingham, Irwin of Pennsylvania, Jackson, Jewett, Kerr of Virginia, King of North Carolina, Love, Lowndes, Lumpkin, Maclay, Mason, McCoy, McKee, Middleton, Moore, Moseley, Murfree, Nelson of Massachusetts, Nelson of Virginia, Ormsby, Parris, Pickens, Piper, Pleasants, Powell, Reynolds, Robertson, Schenck, Sharpe, Smith of Maryland, Smith of Virginia, Southard, Tate, Taul, Taylor of South Carolina, Telfair, Thomas, Throop, Townsend, Tucker, Ward of New York, Ward of New Jersey, Wendover, Wheaton, Wilde, Wilkin, Willoughby, Thomas Wilson, William Wilson, Woodward, Wright, Yancey, and Yates.

The amendments of the Senate were then, after some ineffectual attempts to amend them, concurred in, and the House adjourned.

SATURDAY, April 6.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill to increase the com-

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mencement of the term of said court,) calling on the said corporation to show cause wherefore the charter hereby granted shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violation; and if such violation be made appear, then to pronounce and adjudge that the said charter is forfeited and annulled: *Provided, however,* every issue of fact which may be joined between the United States and the corporation aforesaid shall be tried by jury. And it shall be lawful for the court aforesaid to require the production of such of the books of the said corporation as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court aforesaid shall be examinable in the Supreme Court of the United States, by writ of error, and may be there reversed or affirmed according to the usages of law."

It was determined in the affirmative—yeas 27, nays 8, as follows:

YEAS—Messrs. Barry, Brown, Chace, Daggett, Dana, Fromentin, Gaillard, Goldsborough, Gore, Harper, Horsey, Howell, Hunter, King, Macon, Mason of New Hampshire, Mason of Virginia, Sanford, Talbot, Tait, Taylor, Thompson, Tichenor, Turner, Wells, Williams, and Wilson.

NAYS—Messrs. Barbour, Bibb, Campbell, Condit, Lacock, Morrow, Roberts, and Varnum.

On motion by Mr. HARPER, to strike out of section 11, after "hold," in the seventh line, the following: "in the proportions following, that 'is to say, for one share, and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; and no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes."

It was determined in the negative—yeas 7, nays 23, as follows:

YEAS—Messrs. Daggett, Fromentin, Goldsborough, Harper, Horsey, Mason of New Hampshire, and Wells.

NAYS—Messrs. Barbour, Barry, Bibb, Brown, Campbell, Chace, Condit, Dana, Gaillard, Howell, Hunter, Lacock, Macon, Mason of Virginia, Morrow, Roberts, Sanford, Talbot, Tait, Tichenor, Turner, Varnum, Williams, and Wilson.

The bill having been further amended, on the question, "Shall the amendments be engrossed and the bill read a third time as amended?" it was determined in the affirmative—yeas 23, nays 10, as follows:

YEAS—Messrs. Barbour, Barry, Bibb, Brown, Campbell, Chace, Condit, Daggett, Fromentin, Har-

WEDNESDAY, April 3.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to increase the pensions of invalids in certain cases, for the relief of invalids of the militia, and for the appointment of pension agents in those States where there is no commissioner of loans;" also, a bill, entitled "An act making appropriations for the support of Government for the year 1816." They have also passed a resolution for the appointment of a joint committee to inquire into the expediency of making certain alterations in the mode of transacting the business of Congress, and have appointed a committee on their part; in which bills and resolution they request the concurrence of the Senate.

The resolution last mentioned was read three times, by unanimous consent, and concurred in; and Messrs. VARNUM, BARBOUR, and DAGGETT, were appointed the committee on the part of the Senate.

The five bills last brought up for concurrence were read, and severally passed to the second reading.

On motion, by Mr. MORROW,

Ordered, That the committee to whom was referred the bill, entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," be discharged from the further consideration thereof, and that it be referred to the committee appointed the 2d of January, on the memorial of the Legislative Council and House of Representatives of the Indiana Territory, to consider and report thereon.

Mr. BARBOUR, from the Committee on Military Affairs, to whom the subject was referred, reported a bill to increase the compensation of the superintendents of the manufactories of arms at Springfield and Harper's Ferry; and the bill was read, and passed to the second reading.

Mr. BARBOUR, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act for the liquidation of certain claims, and for other purposes," reported it with an amendment, which was read.

Mr. ROBERTS presented the memorial of manufacturers of shot, in the city of Philadelphia, praying a duty of three cents per pound may be imposed on shot imported into the United States, for reasons stated in the memorial; which was read, and referred to the Committee on Manufactures.

Mr. DANA, from the committee to whom the subject was referred, reported a bill, concerning the annual sum appropriated for arming and equipping the Militia; and the bill was read, and

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household furniture, and on gold and silver watches," was read a third time, and passed.

The Senate proceeded to consider the amendment of the House of Representatives to the amendments of the Senate to the bill, entitled "An act in addition to an act to regulate the Post Office Establishment," and concurred therein.

The bill entitled "An act for the remission of certain duties on the importation of books, for the use of Harvard College, and on the carriage and personal baggage of his Excellency William Gore, Governor of the British Province of Upper Canada," was read a third time, and passed.

The bill supplementary to an act, entitled "An act to incorporate a company for making certain turnpike roads within the District of Columbia," was read a third time, and passed.

On motion by Mr. MORROW, the consideration of the engrossed bill, making appropriation for the construction of roads and canals, was further postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish a system of navigation for the United States; and, on motion by Mr. DANA, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion, and to repeal the laws heretofore passed for those purposes, together with the proposed amendments; and, on motion by Mr. MASON, of Virginia, the further consideration thereof was postponed until to-morrow.

On motion by Mr. DANA,

Resolved, That the Secretary for the Department of War be directed to lay before the Senate a statement of the sums expended for the purchase or manufacture of arms and military equipments for the militia, in pursuance of the act of the 23d of April, 1808, entitled "An act making provision for arming and equipping the whole body of the militia of the United States;" and also a statement of the arms and military equipments which have been so provided, and of the distribution thereof, in execution of the same act.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to ascertain and establish the western boundary of the tract reserved for satisfying the military bounties allowed to the officers and soldiers of the Virginia line on Continental Establishment; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the report of the committee, to whom was referred the resolution relating to the claims of the officers and soldiers of the Virginia line on State and

capital stock of the Chesapeake and Delaware Canal Company; and, on motion by Mr. HORSEY, the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the petition of Catharine Robertson; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the first Monday in June next.

Mr. BARBOUR, from the Committee on Military Affairs, to whom was referred the bill entitled "An act making further provision for military services during the late war, and for other purposes," reported it with amendments; which were read.

The Senate resumed the consideration of the motion made on the 2d instant, relative to the number of the inhabitants of the Mississippi and Indiana Territories; which was amended, and agreed to as follows:

Resolved, That the committees to whom are referred the bills for the admission of the Indiana and Mississippi Territories into the Union as new States, be, and hereby are, instructed to ascertain and report to the Senate the actual number of inhabitants in the said Territories respectively, distinguishing the number of free persons from the number of all other persons, and the number of persons on the east side of the Tombigbee river, in the Mississippi Territory, from those on the west side of the river.

Mr. CAMPBELL, from the Committee on Finance and a Uniform National Currency, to whom was referred the bill entitled "An act for the relief of Robert Kidd," reported it without amendment.

Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act for the relief of Henry Malcolm," reported it without amendment.

Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act to amend an act, entitled 'An act for the relief of Edward Hallowell,'" reported it without amendment.

Mr. KING, from the committee appointed on the subject, submitted the following motion for consideration:

Resolved, That the Senate approve of the alterations suggested for the enlargement of the Senate room, and the better arrangement of the offices of the Senate; and that the plan of the proposed alterations drawn by the surveyor of the public buildings, together with a copy of this resolution, be transmitted to the President of the United States.

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amended?" it was determined in the affirmative—yeas 22, nays 12, as follows:

YEAS—Messrs. Barbour, Barry, Brown, Campbell, Chace, Condit, Daggett, Fromentin, Harper, Horsey, Howell, Hunter, Lacock, Mason of Virginia, Morrow, Roberts, Talbot, Tait, Taylor, Turner, Varnum, and Williams.

NAYS—Messrs. Dana, Gaillard, Goldsborough, Gore, King, Macon, Mason of New Hampshire, Ruggles, Sanford, Tichenor, Wells, and Wilson.

Resolved, That this bill pass, with amendments. [Messrs. BIBB and THOMPSON, the only absentees, are understood to have been detained from the Senate by ill health; the former of these gentlemen being seriously indisposed.]

THURSDAY, April 4.

Mr. BROWN, from the committee to whom the subject was referred, reported a bill for adjusting the claims to land, and establishing a land office for the districts of land lying east of the Mississippi river, and island of New Orleans; and the bill was read; and passed to the second reading.

Mr. CAMPBELL, from the Committee on Finance and an Uniform National Currency, to whom was referred the bill entitled "An act to abolish the existing duties on spirits distilled within the United States, and to lay other duties in lieu of those at present imposed on licenses to distillers of spirituous liquors," reported it with an amendment.

The bill entitled "An act making appropriations for the support of Government for the year 1816," was read the second time, and referred to a select committee; and Messrs. LACOCK, DAGGETT, and MORROW, were appointed the committee.

The bill entitled "An act continuing the salaries of certain officers of Government," was read the second time, and referred to the committee last mentioned.

The bill entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year 1816," was read the second time, and referred to the Committee on Military Affairs.

The bill entitled "An act making appropriations for the support of the Navy of the United States, for the year 1816," was read the second time, and referred to the Committee on Naval Affairs.

The bill entitled "An act to increase the pensions of invalids in certain cases, for the relief of invalids of the militia, and for the appointment of pension agents in those States where there is no commissioner of loans," was read the second time, and referred to the Committee on the Mil-

Mr. MORROW, from the committee to whom was referred the bill, entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," reported it with amendments; which were read.

Mr. MORROW, from the same committee, communicated a certified statement of the census of the Indiana Territory.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report from the Secretary of the Treasury, complying with their resolutions of the 26th March last.

JAMES MADISON.

APRIL 4, 1816.

The Message and report, therein mentioned, were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion, and to repeal the laws heretofore passed for those purposes, together with the proposed amendments; and, after progress, on motion by Mr. BROWN, the further consideration thereof was postponed until the fourth Monday in July next.

The Senate resumed the report of the select committee, relating to the claims of the officers and soldiers of the Virginia line, on State and Continental Establishment, for bounty lands; and on motion, by Mr. BARBOUR, the consideration thereof was further postponed until this day fortnight.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning certain advances made for the public service by the city of New York; and on motion, by Mr. BARBOUR, it was referred to the Committee on Military Affairs, "with instructions to inquire whether any, and, if any, what provisions ought to be made by law for payment of damages sustained by persons on whose lands military works have been constructed during the late war, either under the authority of any officer of the United States, or that of any State, corporation, or otherwise, not hitherto provided for."

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the District of Columbia; and on motion, by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill dividing the State of Pennsylvania into two judicial districts.

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commission, on the first hundred dollars collected in one quarter, may be increased to a sum not exceeding fifty per cent.

The Postmaster General may allow to the postmasters, respectively, a commission of fifty per cent. on the moneys arising from the postage of newspapers, magazines, and pamphlets; and to the postmaster whose compensation shall not exceed five hundred dollars in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the postmaster himself; and each postmaster who shall be required to keep a register of the arrival and departure of the mails, shall be allowed ten cents for each monthly return which he makes thereof to the General Post Office.

The Postmaster General may allow to the postmaster at New Orleans, at the rate of eight hundred dollars, and to the postmaster at Warrenton, in North Carolina, at the rate of two hundred dollars, and to the postmaster at Wheeling, in Virginia, at the rate of two hundred dollars a year, in addition to their ordinary commissions. The Postmaster General is hereby authorized to allow to the postmaster at the City of Washington, in addition to the allowance made by this act for postage collected, and for free letters received by him for delivery, a commission of five per centum on the amount of mails distributed at his office: *Provided, nevertheless,* That the whole annual emoluments of the said postmaster, including the extra compensation heretofore allowed to him by law, shall always be subject to the restriction imposed by the fortieth section of the act of Congress approved the thirtieth of April, one thousand eight hundred and ten, to which this act is in addition.

Sec. 3. *And be it further enacted,* That letters and packets to and from any member of the Senate, or member or delegate of the House of Representatives of the United States, the Secretary of the Senate, and Clerk of the House of Representatives, shall be conveyed free of postage, for thirty days previous to each session of Congress, and for thirty days after the termination thereof: *Provided always,* That no letter or packet shall exceed two ounces in weight, and in case of excess of weight, that excess alone shall be paid for.

Sec. 4. *And be it further enacted,* That the eleventh and twenty-eighth sections of the act, entitled "An act regulating the Post Office Establishment," approved April thirtieth, one thousand eight hundred and ten, and the first and second sections of the act, entitled "An act in addition to the act regulating the Post Office Establishment," approved February twenty-seventh, one thousand eight hundred and fifteen, and the fourth and fifth sections of the same, except such parts as relate to steamboats, their masters, or managers, and persons employed on board the same, be, and the same are hereby, repealed.

Sec. 5. *And be it further enacted,* That this act shall take effect from and after the thirty-first day of March, one thousand eight hundred and sixteen.

Approved, April 9, 1816.

An Act to incorporate the subscribers to the Bank of the United States.

Be it enacted, &c., That a bank of the United States of America shall be established, with a capital of thirty-five millions of dollars, divided into three hundred and fifty thousand shares, of one hundred dollars each share. Seventy thousand shares, amounting to the sum of seven millions of dollars, part of the capital of the said bank, shall be subscribed and paid for by the United States, in the manner hereinafter specified; and two hundred and eighty thousand shares, amounting to the sum of twenty-eight millions of dollars, shall be subscribed and paid for by individuals, companies, or corporations, in the manner hereinafter specified.

Sec. 2. *And be it further enacted,* That subscriptions for the sum of twenty-eight millions of dollars, towards constituting the capital of the said bank, shall be opened on the first Monday in July next, at the following places: that is to say, at Portland, in the District of Maine; at Portsmouth, in the State of New Hampshire; at Boston, in the State of Massachusetts; at Providence, in the State of Rhode Island; at Middletown, in the State of Connecticut; at Burlington, in the State of Vermont; at New York in the State of New York; at New Brunswick, in the State of New Jersey; at Philadelphia, in the State of Pennsylvania; at Wilmington, in the State of Delaware; at Baltimore, in the State of Maryland; at Richmond, in the State of Virginia; at Lexington, in the State of Kentucky; at Cincinnati, in the State of Ohio; at Raleigh, in the State of North Carolina; at Nashville, in the State of Tennessee; at Charleston, in the State of South Carolina; at Augusta, in the State of Georgia; at New Orleans, in the State of Louisiana; and at Washington, in the District of Columbia. And the said subscriptions shall be opened under the superintendence of five commissioners at Philadelphia, and of three commissioners at each of the other places aforesaid, to be appointed by the President of the United States, who is hereby authorized to make such appointments, and shall continue open every day, from the time of opening the same, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, for the term of twenty days, exclusive of Sundays, when the same shall be closed, and immediately thereafter the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or copies of such subscriptions to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original they shall transmit, within seven days from the closing of the subscriptions as aforesaid, to the commissioners at Philadelphia aforesaid. And on the receipt of the said original subscriptions, or of either of the said copies thereof, if the original be lost, mislaid, or detained, the commissioners at Philadelphia aforesaid, or a majority of them, shall immediately thereafter convene, and proceed to take an account of the said subscriptions. And if more than the amount of twenty-eight millions of dol-

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lars shall have been subscribed, then the said last mentioned commissioners shall deduct the amount of such excess from the largest subscriptions, in such manner as that no subscription shall be reduced in amount, while any one remains larger: *Provided*, That if the subscriptions taken at either of the places aforesaid shall not exceed three thousand shares, there shall be no reduction of such subscriptions, nor shall, in any case, the subscriptions taken at either of the places aforesaid be reduced below that amount. And in case the aggregate amount of the said subscriptions shall exceed twenty-eight millions of dollars, the said last mentioned commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including in each list the apportioned subscription for the place where the original subscription was made, one of which lists they shall transmit to the commissioners or one of them, under whose superintendence such subscriptions were originally made, that the subscribers may thereby ascertain the number of shares to them respectively apportioned as aforesaid. And in case the aggregate amount of the said subscriptions made during the period aforesaid, at all the places aforesaid, shall not amount to twenty-eight millions of dollars, the subscriptions to complete the said sum shall be and remain open at Philadelphia aforesaid, under the superintendence of the commissioners appointed for that place; and the subscriptions may be then made by any individual, company, or corporation, for any number of shares, not exceeding, in the whole, the amount required to complete the said sum of twenty-eight millions of dollars.

SEC. 3. *And be it further enacted*, That it shall be lawful for any individual, company, corporation, or State, when the subscriptions shall be opened as hereinbefore directed, to subscribe for any number of shares of the capital of the said bank, not exceeding three thousand shares, and the sums so subscribed shall be payable, and paid, in the manner following: that is to say, seven millions of dollars thereof in gold or silver coin of the United States, or in gold coin of Spain, or the dominions of Spain, at the rate of one hundred cents for every twenty-eight grains and sixty hundredths of a grain of the actual weight thereof, or in other foreign gold or silver coin at the several rates prescribed by the first section of an act regulating the currency of foreign coins in the United States, passed tenth day of April, one thousand eight hundred and six, and twenty-one millions of dollars thereof in like gold or silver coin, or in the funded debt of the United States contracted at the time of the subscriptions respectively. And the payments made in the funded debt of the United States, shall be paid and received at the following rates: that is to say, the funded debt bearing an interest of six per centum per annum, at the nominal or par value thereof; the funded debt bearing an interest of three per centum per annum, at the rate of sixty-five dollars for every sum of one hundred dollars of the nominal amount thereof; and the funded debt

bearing an interest of seven per centum per annum, at the rate of one hundred and six dollars and fifty-one cents, for every sum of one hundred dollars of the nominal amount thereof; together with the amount of the interest accrued on the said several denominations of funded debt, to be computed and allowed to the time of subscribing the same to the capital of the said bank as aforesaid. And the payments of the said subscriptions shall be made and completed by the subscribers, respectively, at the times and in the manner following: that is to say, at the time of subscribing there shall be paid five dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more in coin as aforesaid, or in funded debt as aforesaid; at the expiration of six calendar months after the time of subscribing, there shall be paid the further sum of ten dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more in coin as aforesaid, or in funded debt as aforesaid; at the expiration of twelve calendar months from the time of subscribing, there shall be paid the further sum of ten dollars, on each share, in gold or silver coin as aforesaid, and twenty-five dollars more, in coin as aforesaid, or in funded debt as aforesaid.

SEC. 4. *And be it further enacted*, That, at the time of subscribing to the capital of the said bank as aforesaid, each and every subscriber shall deliver to the commissioners, at the place of subscribing, as well the amount of their subscriptions respectively in coin as aforesaid, as the certificates of funded debt, for the funded debt proportions of their respective subscriptions, together with a power of attorney, authorizing the said commissioners, or a majority of them, to transfer the said stock, in due form of law to "the president, directors, and company, of the Bank of the United States," as soon as the said bank shall be organized. *Provided always*, That if, in consequence of the apportionment of the shares in the capital of the said bank among the subscribers, in the case, and in the manner, hereinbefore provided, any subscriber shall have delivered to the commissioners, at the time of subscribing, a greater amount of gold or silver coin and funded debt than shall be necessary to complete the payments for the share or shares to such subscribers, apportioned as aforesaid, the commissioners shall only retain so much of the said gold or silver coin, and funded debt, as shall be necessary to complete such payments, and shall, forthwith, return the surplus thereof, on application for the same to the subscribers lawfully entitled thereto. And the commissioners, respectively, shall deposit the gold and silver coin, and certificates of public debt by them respectively received as aforesaid from the subscribers to the capital of the said bank, in some place of secure and safe keeping, so that the same may and shall be specially delivered and transferred, as the same were by them respectively received, to the president, directors, and company, of the Bank of the United States, or to their order, as soon as shall be required after the organization of the said bank. And the said commissioners appointed to superintend the subscrip-

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tions to the capital of the said bank as aforesaid, shall receive a reasonable compensation for their services respectively, and shall be allowed all reasonable charges and expenses incurred in the execution of their trust, to be paid by the president, directors, and company, of the bank, out of the funds thereof.

SEC. 5. *And be it further enacted*, That it shall be lawful for the United States to pay and redeem the funded debt subscribed to the capital of the said bank, at the rates aforesaid, in such sums, and at such times, as shall be deemed expedient, anything in any act or acts of Congress to the contrary thereof notwithstanding. And it shall also be lawful for the president, directors, and company, of the said bank, to sell and transfer for gold and silver coin, or bullion, the funded debt subscribed to the capital of the said bank as aforesaid: *Provided always*, That they shall not sell more thereof than the sum of two millions of dollars in any one year; nor sell any part thereof at any time within the United States, without previously giving notice of their intention to the Secretary of the Treasury, and offering the same to the United States for the period of fifteen days, at least, at the current price, not exceeding the rates aforesaid.

SEC. 6. *And be it further enacted*, That, at the opening of subscription to the capital stock of the said bank, the Secretary of the Treasury shall subscribe, or cause to be subscribed, on behalf of the United States, the said number of seventy thousand shares, amounting to seven millions of dollars as aforesaid, to be paid in gold or silver coin, or in stock of the United States, bearing interest at the rate of five per centum per annum; and if payment thereof or of any part thereof, be made in public stock, bearing interest as aforesaid, the said interest shall be payable quarterly, to commence from the time of making such payment on account of the said subscription, and the principal of the said stock shall be redeemable in any sums, and at any periods, which the Government shall deem fit. And the Secretary of the Treasury shall cause the certificates of such public stock to be prepared, and made in the usual form, and shall pay and deliver the same to the president, directors, and company, of the said bank on the first day of January, one thousand eight hundred and seventeen, which said stock it shall be lawful for the said president, directors, and company, to sell and transfer for gold and silver coin or bullion at their discretion: *Provided*, They shall not sell more than two millions of dollars thereof in any one year.

SEC. 7. *And be it further enacted*, That the subscribers to the said Bank of the United States of America, their successors and assigns, shall be, and are hereby, created a corporation and body politic, by the name and style of "The president, directors, and company, of the Bank of the United States," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-six, and by that name shall be, and are hereby, made able and capable, in law, to have, purchase, receive, possess, enjoy, and re-

tain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding, in the whole, fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all State courts having competent jurisdiction, and in any circuit court of the United States: and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure: and also to ordain, establish, and put in execution, such by-laws, and ordinances, and regulations, as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the constitution thereof, or to the laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 8. *And be it further enacted*, That, for the management of the affairs of the said corporation, there shall be twenty-five directors, five of whom, being stockholders, shall be annually appointed by the President of the United States, by and with the advice and consent of the Senate, not more than three of whom shall be residents of any one State; and twenty of whom shall be annually elected at the banking-house in the city of Philadelphia, on the first Monday of January, in each year, by the qualified stockholders of the capital of the said bank other than the United States, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed: *Provided always*, That no person, being a director in the Bank of the United States, or any of its branches, shall be a director of any other bank; and should any such director act as a director in any other bank, it shall forthwith vacate his appointment in the direction of the Bank of the United States. And the directors, so duly appointed and elected, shall be capable of serving, by virtue of such appointment and choice, from the first Monday in the month of January of each year, until the end and expiration of the first Monday in the month of January of the year next ensuing the time of each annual election to be held by the stockholders as aforesaid. And the board of directors, annually, at the first meeting after their election in each and every year, shall proceed to elect one of the directors to be president of the corporation, who shall hold the said office during the same period for which the directors are appointed and elected as aforesaid: *Provided also*, That the first appointment and election of the directors and president of the said bank shall be at the time and for the period hereinafter declared: *And provided also*, That in case it should at any time happen that an appointment or election of directors, or an election of the president of the said bank, should not be so made as to take effect

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on any day when, in pursuance of this act, they ought to take effect, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful at any other time to make such appointments, and to hold such elections, (as the case may be,) and the manner of holding the elections shall be regulated by the by-laws and ordinances of the said corporation: and until such appointments or elections be made, the directors and president of the said bank, for the time being, shall continue in office: *And provided also*, That in case of the death, resignation, or removal, of the president of the said corporation, the directors shall proceed to elect another president from the directors as aforesaid: and in case of the death, resignation, or absence from the United States, or removal of a director from office, the vacancy shall be supplied by the President of the United States, or by the stockholders, as the case may be. But the President of the United States alone shall have power to remove any of the directors appointed by him as aforesaid.

SEC. 9. *And be it further enacted*, That as soon as the sum of eight millions four hundred thousand dollars in gold and silver coin, and in the public debt, shall have been actually received on account of the subscriptions to the capital of the said bank (exclusively of the subscription aforesaid, on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at the city of Philadelphia, in at least two newspapers printed in each of the places (if so many be printed in such places respectively) where subscriptions shall have been made, and the said persons shall, at the same time, and in like manner, notify a time and place within the said city of Philadelphia, at the distance of at least thirty days from the time of such notification, for proceeding to the election of twenty directors as aforesaid, and it shall be lawful for such election to be then and there made. And the President of the United States is hereby authorized, during the present session of Congress, to nominate, and, by and with the advice and consent of the Senate, to appoint, five directors of the said bank, though not stockholders, anything in the provisions of this act to the contrary notwithstanding; and the persons who shall be elected and appointed as aforesaid, shall be the first directors of the said bank, and shall proceed to elect one of the directors to be president of the said bank; and the directors and president of the said bank, so appointed and elected as aforesaid, shall be capable of serving in their respective office, by virtue thereof, until the end and expiration of the first Monday of the month of January next ensuing the said appointments and elections, and they shall then and thenceforth commence, and continue the operations of the said bank, at the city of Philadelphia.

SEC. 10. *And be it further enacted*, That the directors, for the time being, shall have power to appoint such officers, clerks, and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them

such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the officers of the said corporation as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances, of the same.

SEC. 11. *And be it further enacted*, That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say, for one share and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes; and after the first election, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders actually resident within the United States, and none other, may vote in elections by proxy.

2. Not more than three-fourths of the directors elected by the stockholders, and not more than four-fifths of the directors appointed by the President of the United States, who shall be in office at the time of an annual election, shall be elected or appointed for the next succeeding year; and no director shall hold his office more than three years out of four in succession; but the director who shall be the president at the time of an election may always be reappointed or re-elected, as the case may be.

3. None but a stockholder, resident citizen of the United States, shall be a director; nor shall a director be entitled to any emolument; but the directors may make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

4. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence; in which case his place may be supplied by any other director whom he, by writing, under his hand, shall depute for that purpose. And the director so deputed may do and transact all the necessary business, belonging to the office of the president of the said corporation, during the continuance of the sickness or necessary absence of the president.

5. A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution,

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giving at least ten weeks' notice in two public newspapers of the place where the bank is seated, and specifying in such notice the object or objects of such meeting.

6. Each cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behaviour, and the faithful performance of his duties to the corporation.

7. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

8. The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, over and above the debt or debts due for money deposited in the bank, shall not exceed the sum of thirty-five millions of dollars, unless the contracting of any greater debt shall have been previously authorized by law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding. But this provision shall not be construed to exempt the said corporation or the lands, tenements, goods, or chattels of the same from being also liable for, and chargeable with, the said excess. Such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

9. The said corporation shall not, directly or indirectly, deal or trade in anything except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever, nor shall it take more than at the rate of six per centum per annum for or upon its loans or discounts.

10. No loan shall be made by the said corpora-

tion, for the use or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of any foreign Prince or State, unless previously authorized by a law of the United States.

11. The stock of the said corporation shall be assignable and transferrable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

12. The bills, obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her or their executors or administrators, and his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees, and his, her or their executors or administrators, to maintain an action thereupon in his, her or their own name or names: *Provided*, That said corporation shall not make any bill obligatory, or of credit, or other obligation under its seal for the payment of a sum less than five thousand dollars. And the bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in like manner, and with like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement, in like manner, and with the like effect as foreign bills of exchange now are; and those which are payable to bearer shall be assignable and negotiable by delivery only: *Provided*, That all bills or notes, so to be issued by said corporation, shall be made payable on demand, other than bills or notes for the payment of a sum not less than one hundred dollars each, and payable to the order of some person or persons, which bills or notes it shall be lawful for said corporation to make payable at any time not exceeding sixty days from the date thereof.

13. Half-yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every three years the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of the profits, if any, after deducting losses and dividends. If there shall be a failure in the pay-

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ment of any part of any sum subscribed to the capital of the said bank, by any person, copartnership or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

14. The directors of the said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment; also one such office of discount and deposit in any State in which two thousand shares shall have been subscribed or may be held, whenever, upon application of the Legislature of such State, Congress may, by law, require the same: *Provided*, the directors aforesaid shall not be bound to establish such office before the whole of the capital of the bank shall have been paid up. And it shall be lawful for the directors of the said corporation to establish offices of discount and deposit, wheresoever they shall think fit, within the United States or the Territories thereof, and to commit the management of the said offices, and the business thereof, respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid, other than for the purposes of discount, to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper. Not more than thirteen, nor less than seven managers or directors, of every office established as aforesaid, shall be annually appointed by the directors of the bank, to serve one year; they shall choose a president from their own number; each of them shall be a citizen of the United States, and a resident of the State, Territory, or district, wherein such office is established; and not more than three-fourths of the said managers or directors, in office at the time of an annual appointment, shall be reappointed for the next succeeding year; and no director shall hold his office more than three years out of four, in succession; but the president may be always reappointed.

15. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation and of the debts due to the same; of the moneys deposited therein; of the notes in circulation, and of the specie in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

16. No stockholder, unless he be a citizen of the United States, shall vote in the choice of directors.

17. No note shall be issued of less amount than five dollars.

SEC. 12. *And be it further enacted*, That if the said corporation, or any person or persons, for or to the use of the same, shall deal or trade in buying or selling goods, wares, merchandise, or commodities whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given; and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandise, and commodities in which such dealing and trade shall have been, one-half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered in any action of law with costs of suit.

SEC. 13. *And be it further enacted*, That if the said corporation shall advance or lend any sum of money for the use or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or of any foreign Prince or State, (unless previously authorized thereto by a law of the United States,) all and every person and persons, by and with whose order, agreement, consent, approbation, and connivance, such unlawful advance or loan shall have been made, upon conviction thereof shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which have been so unlawfully advanced or lent; one-fifth thereof to the use of the informer, and the residue thereof to the use of the United States.

SEC. 14. *And be it further enacted*, That the bills or notes of the said corporation originally made payable, or which shall have become payable on demand, shall be receivable in all payments to the United States, unless otherwise directed by act of Congress.

SEC. 15. *And be it further enacted*, That during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States, or the Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference in exchange, and shall also do and perform the several and respective duties of the Commissioners of Loans for the several States, or of any one or more of them, whenever required by law.

SEC. 16. *And be it further enacted*, That the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and

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direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction.

SEC. 17. *And be it further enacted*, That the said corporation shall not at any time suspend or refuse payment in gold and silver, of any of its notes, bills, or obligations; nor of any moneys received upon deposit in said bank, or in any of its offices of discount and deposit. And if the said corporation shall at any time refuse or neglect to pay on demand any bill, note or obligation issued by the corporation, according to the contract, promise, or undertaking therein expressed; or shall neglect or refuse to pay on demand any moneys received in said bank, or in any of its offices aforesaid, on deposit, to the person or persons entitled to receive the same, then, and in every such case, the holder of any such note, bill, or obligation, or the person or persons entitled to demand and receive such moneys as aforesaid, shall respectively be entitled to receive and recover interest on the said bills, notes, obligations, or moneys, until the same shall be fully paid and satisfied, at the rate of twelve per centum per annum from the time of such demand as aforesaid: *Provided*, That Congress may at any time hereafter enact laws enforcing and regulating the recovery of the amount of the notes, bills, obligations, or other debts, of which payment shall have been refused as aforesaid, with the rate of interest abovementioned, vesting jurisdiction for that purpose in any courts, either of law or equity, of the courts of the United States, or Territories thereof, or of the several States, as they may deem expedient.

SEC. 18. *And be it further enacted*, That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of or purporting to be a bill or note issued by order of the president, directors, and company of the said bank, or any order or check on the said bank or corporation, or any cashier thereof; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the president, directors, and company of the said bank, or any order or check on the said bank or corporation, or any cashier thereof; or shall pass, utter or publish, or attempt to pass, utter or publish as true, any false, forged, or counterfeited bill or note, purporting to be a bill or note issued by order of the president, directors, and company of the said bank, or any false, forged, or counterfeited order or check upon the said bank or corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass, utter or publish, or attempt to pass, utter or publish, as true, any falsely altered bill or note issued by order of the president, directors, and company of the said bank, or any falsely altered order or check on the said bank or corporation, or any cashier thereof, know-

ing the same to be falsely altered with intention to defraud the said corporation or any other body politic or person; or shall sell, utter or deliver, or cause to be sold, uttered or delivered, any forged or counterfeit note or bill in imitation, or purporting to be a bill or note issued by order of the president and directors of the said bank, knowing the same to be false, forged, or counterfeited; every such person shall be deemed and adjudged guilty of felony, and, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to labor for not less than three years, nor more than ten years, or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars: *Provided*, That nothing herein contained shall be construed to deprive the courts of the individual States of a jurisdiction under the laws of the several States, over any offence declared punishable by this act.

SEC. 19. *And be it further enacted*, That if any person shall make or engrave, or cause, or procure to be made or engraved, or shall have in his custody or possession, any metallic plate, engraved after the similitude of any plate from which any notes or bills, issued by the said corporation, shall have been printed, with intent to use such plate, or to cause, or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by said corporation; or shall have in his custody or possession, any blank note or notes, bill or bills, engraved and printed after the similitude of any notes or bills issued by said corporation, with intent to use such blanks, or cause, or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation; or shall have in his custody or possession, any paper adapted to the making of bank notes or bills, and similar to the paper upon which any notes or bills of the said corporation shall have been issued, with intent to use such paper, or cause, or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation, every such person, being thereof convicted, by due course of law, shall be sentenced to be imprisoned, and kept to hard labor, for a term not exceeding five years, or shall be imprisoned for a term not exceeding five years, and fined in a sum not exceeding one thousand dollars.

SEC. 20. *And be it further enacted*, That in consideration of the exclusive privileges and benefits conferred by this act upon the said bank, the president, directors, and company thereof, shall pay to the United States, out of the corporate funds thereof, the sum of one million and five hundred thousand dollars, in three equal payments; that is to say: five hundred thousand dollars at the expiration of two years; five hundred thousand dollars at the expiration of three years; and five hundred thousand dollars at the expiration of four years after the said bank shall be organized, and commence its operations in the manner hereinbefore provided.

SEC. 21. *And be it further enacted*, That no other bank shall be established by any future law of the United States during the continuance of

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the corporation hereby created, for which the faith of the United States is hereby pledged: *Provided*, Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof, and may also establish any other bank or banks in said District, with capitals not exceeding, in the whole, six millions of dollars, if they shall deem it expedient. And, notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed; but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years after the expiration of the said term of incorporation.

SEC. 22. *And be it further enacted*, That if the subscriptions and payments to said bank shall not be made and completed so as to enable the same to commence its operations, or if the said bank shall not commence its operations on or before the first Monday in April next, then, and in that case, Congress may, at any time, within twelve months thereafter, declare, by law, this act null and void.

SEC. 23. *And be it further enacted*, That it shall, at all times, be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been, by the same, violated or not; and whenever any committee, as aforesaid, shall find and report, or the President of the United States shall have reason to believe that the charter has been violated, it may be lawful for Congress to direct, or the President to order a *scire facias* to be sued out of the circuit court of the district of Pennsylvania, in the name of the United States, (which shall be executed upon the president of the corporation for the time being, at least fifteen days before the commencement of the term of said court,) calling on the said corporation to show cause wherefore the charter, hereby granted, shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said *scire facias*, to examine into the truth of the alleged violation, and if such violation be made to appear, then to pronounce and adjudge that the said charter is forfeited and annulled: *Provided, however*, Every issue of fact which may be joined between the United States and the corporation aforesaid, shall be tried by jury. And it shall be lawful for the court aforesaid to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court aforesaid, shall be examinable in the Supreme Court of the United States, by writ of error, and may be there reversed or affirmed, according to the usages of law.

Approved, April 10, 1816.

14th CON. 1st Sess.—58

An Act making appropriations for the support of Government, for the year one thousand eight hundred and sixteen.

Be it enacted, &c., That, for the expenditure of the civil list in the present year, including the contingent expenses of the several departments and offices; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint Establishment; for the expenses of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; for surveying the coast of the United States; for making the Cumberland road; for ascertaining the titles to lands in Louisiana; for providing certificates of registry and lists of crews; and for satisfying certain miscellaneous claims, the following sums be, and the same are hereby, respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers, and attendants, five hundred and ninety-five thousand two hundred and fifty dollars, and the deduction to be made on account of the absence of members or delegates for any part of the present session, shall be in the proportion which the days of their absence respectively bear to the whole number of the days of the session.

For the expense of firewood, stationery, printing, and all other contingent expenses of the two Houses of Congress, forty-seven thousand dollars.

For the expenses of the Library of Congress, including the librarian's allowance for the year one thousand eight hundred and sixteen, eight hundred dollars.

For compensation to the President of the United States, twenty-five thousand dollars.

For rent and repairs of the tenement occupied by the President of the United States since August, one thousand eight hundred and fourteen, three thousand five hundred and fifty dollars.

For compensation to the Secretary of State, five thousand dollars.

For compensation to the clerks employed in the Department of State, being the sum appropriated for the service of the year one thousand eight hundred and fifteen, eleven thousand three hundred and fifty dollars and fifty cents.

For compensation to the messenger in said Department and in the Patent Office, six hundred and sixty dollars.

For the incidental and contingent expenses of the said Department, including the expense of printing and distributing ten thousand four hundred copies of the laws of the first session of the Fourteenth Congress, and printing the laws in newspapers, sixteen thousand nine hundred and thirty dollars.

For compensation to the Secretary of the Treasury, five thousand dollars.

For compensation to the clerks employed in the office of the Secretary of the Treasury, being the sum appropriated for the service of the year one thousand eight hundred and fifteen, ten thou-

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notice that the second objection, instead of being the principal, or, as has been insisted, the only substantial difficulty with the President, was, in truth, only a just inference which he drew, as he explicitly states, from the first objection.

In presenting the first objection, the President seemed to consider it quite sufficient barely to state the fact of there existing no one proportion or divisor that would produce the result of the bill before him. He enters into no argument, but thought he had said enough to produce conviction with any mind. The debates that were had on this rejected bill in the House of Representatives, confirm the views which I had the honor to urge. The representation of fractions was then resisted on constitutional grounds.

Mr. Madison opposed it in terms for this cause, and urged the following cogent consideration: "You are calling upon us to invade the constitution, by adopting a process that will give representatives for those several and distinct fractions of the different States."

When this bill was returned, the Congress passed a new bill with a ratio of 33,000, and applied that to the population of each State: New Jersey, having at that time 179,570 federal numbers, received by the bill five members, with a fraction remaining of 14,570; and the whole apportionment of representatives on the population of that era, (being 3,615,920,) left an amount of fractions exceeding 150,000. Yet, sir, it was submitted to—so in 1800—again in 1810—and last, in 1820, with increased fractions at each period, but with the same acquiescence in the construction of President Washington, in 1792. Mr. President, if I could think this a debatable point originally, such an adjustment of it, followed by such confirmation, would prevail to quiet all scruples. I should feel bound to bow with respect to the weight of a precedent of such commanding authority. While I consider the present bill as far from adopting that just ratio which would relieve as much as practicable the heavy fractions upon the small States, yet I must, though with reluctance, vote against the amendment, because it is opposed, in my judgment, to the provisions of the constitution, as expounded in 1792, and since approved of.

As a general question of public policy, I can find some consolation in the suggestion of Mr. Hamilton, when he was urging the adoption of the great charter—that the large States can make no law for the smaller States, that will not be law for themselves. Sir, excepting in our electoral colleges, there is no national interest of agriculture, commerce, or manufactures, on which New York and Pennsylvania can give a vote, that is not as deeply important to them as to New Jersey. I feel this to be a security, as well as a consolation. At this crisis, sir, it is no matter for regret that these States stand forth as the sustaining pillars of the great system of domestic industry so vitally essential to the prosperity of New Jersey, and every other State, great or small.

The honorable Senator from Delaware complains that his State has been hardly dealt by, and I agree, sir, that he has good cause; but I fail to be convinced that Delaware has greatly suffered on this account. If right has been withheld, I am aware that it is no plea to justify wrong; but it is to my mind a grateful palliation that her feeble, numerical strength has, through her whole history, thrown her upon her moral and intellectual resources, and attracted to the public councils of the country from that small, but honored State, something vastly more powerful than mere numbers; something that exalted her to a niche as elevated, and an influence as commanding, as any—even the proudest of her sisters on this floor.

Mr. SPRAGUE and Mr. WEBSTER spoke briefly in reply to Mr. FRELINGHUYSEN.

Mr. MANGUM gave his reasons for his intended vote in favor of the motion to amend the amendment, and in favor

of a motion, should one be made, for recommitting the bill, for the purpose of modifying it so as to render it less unequal in its operation.

Mr. CLAYTON added some remarks in reply to Mr. FRELINGHUYSEN.

The question being then taken upon the motion of Mr. FORSYTH to strike out the clause of the amendment which provides for the representation of fractions, it was decided in the affirmative, as follows:

YEAS.—Messrs. Bibb, Brown, Dallas, Dudley, Ellis, Forsyth, Frelinghuysen, Grundy, Hendricks, Hill, Kane, King, Marcy, Mangum, Poindexter, Robinson, Ruggles, Tazewell, Tipton, Tomlinson, Troup, Tyler, White, Wilkins.—24.

NAYS.—Messrs. Bell, Benton, Buckner, Chambers, Clayton, Dickerson, Ewing, Foot, Hayne, Holmes, Johnston, Knight, Miller, Moore, Naudain, Prentiss, Robbins, Seymour, Silsbee, Smith, Sprague, Waggaman, Webster.—23.

Mr. WEBSTER remarked, that the other portion of the amendment offered by him was no longer of any consequence, and he would withdraw it, or vote against its adoption. The amendment was rejected.

Mr. HILL moved to strike out 47,700 from the bill, and insert 44,000.

At the request of Mr. TAZEWELL, the motion was divided; and the question being taken on the motion to strike out, it was decided in the negative.

Mr. WEBSTER said he should now vote against the bill as a practical violation of the constitution.

The question being on ordering the bill to a third reading, it was decided in the affirmative by the following vote:

YEAS.—Messrs. Benton, Bibb, Brown, Dallas, Dudley, Ellis, Ewing, Forsyth, Grundy, Hayne, Hendricks, Kane, King, Knight, Mangum, Marcy, Moore, Poindexter, Robinson, Ruggles, Tazewell, Tipton, Tomlinson, Troup, Tyler, White, Wilkins.—27.

NAYS.—Messrs. Bell, Buckner, Chambers, Clayton, Dickerson, Foot, Frelinghuysen, Hill, Holmes, Johnston, Miller, Naudain, Prentiss, Robbins, Seymour, Silsbee, Smith, Sprague, Waggaman, Webster.—20.

Mr. Benton, on giving his vote in the affirmative, remarked that he was much dissatisfied with the provisions of the bill, but voted for it because it was necessary to pass it, even in this shape.

The Senate then adjourned.

TUESDAY, MARCH 13.

BANK OF THE UNITED STATES.

Mr. DALLAS, from the select committee appointed on the subject, reported a bill to renew the charter of the Bank of the United States for the term of fifteen years, to take effect subsequent to the expiration of the present charter in the year 1836; which was read, and ordered to a second reading.

The following resolution, submitted by Mr. ROBBINS yesterday, was taken up for consideration, viz.

Resolved, That the Secretary of the Senate be authorized to subscribe for sixty copies of the Legislative and Documentary History of the Bank of the United States, compiled by M. St. Clair Clarke and D. A. Hall, whereof one copy shall be distributed to each member of the Senate, one copy to the President and Secretary of the Senate, and the residue retained for the library of the Senate, provided that the price of the work shall not exceed the sum of five dollars.

Mr. ROBBINS said that the resolution submitted in the House of Representatives, providing for the purchase, had been considered by the committee to which it was referred, and they had reported in its favor. The committee in the Senate were also of the opinion that the work should be furnished to the members of this body, as the

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information would be of great advantage in enabling them to come to a decision on the question of rechartering the bank. He therefore hoped there would be no objection to the passage of the resolution.

Mr. HILL, of New Hampshire, said: The proposition is to procure sixty copies of a book relative to the Bank of the United States, of which each one of us is to have a copy. It may not become me to oppose such a proposition—it may be considered obtrusive in a new member to do it. Our tables have been loaded (and the burden continues almost daily to accumulate) with documents in behalf of the Bank of the United States. The printing on that subject alone, during the present session, probably amounts to some thousands of pages; and as yet we have had but a foretaste of what is to follow. Numerous petitions from the several local banks are here presented, with an array of such names as may be gathered in behalf of any subject whatever, in the purlieus of our cities. A few days since I found before me an elaborate printed argument in favor of the bank from the directors of a country bank in New Hampshire, which bank, I am confident, could have no other motive than fear to induce it to make such a request. Is it not a fact that most of the local banks, in several States, have been imperiously required to prefer petitions for the renewal of the charter of the Bank of the United States? Has not the President of the mammoth monopoly told Congress that he had it in his power to close the doors of the local banks? What can they do but petition when they are required to petition? Can it be supposed that these local banks, which are liable to State taxation, and which are taxed by the States, will voluntarily ask Congress to place a rival establishment among them, having the Government deposits at all times in its hands, with which to wrong and oppress them, and exempt from every species of State taxation? No man of sense will believe it. If an humble individual, having an honest claim on the Government, would lay the merits of that claim before Congress, he is obliged to pay the expense of printing himself; but every possible argument, whether founded on fact or fallacy, that can be presented in favor of perpetuating a monstrous monopoly—a monopoly that has the means of corruption in its own hands, and may apply them if it will—must be printed at the public expense! I venture to say that a majority of the members have been unable to read one half of what has already been ordered to be printed in relation to the bank. They cannot read it, and attend properly to the other public business. It is now proposed to furnish an additional volume of some eight hundred pages—a very pretty volume, gilt, and bound in calf, perhaps to decorate the libraries of gentlemen, when they shall return home, after the bank bill shall have been passed: for that must be passed (so say its friends) during the present session. I am satisfied with the information that is daily developed in relation to this bank, without making an additional charge on the public treasury for the purchase of this book. I want to know no more of its history than to know that this institution can control the whole currency of the country—that it can, at pleasure, raise and depress prices—that it can make money plenty or scarce—that it is the source of action and reaction on business—that it can force speculation by liberal issues, either of bank bills or illegal orders, and produce consternation and ruin, either by omitting discounts or calling in its debts. The charge for printing, in relation to this bank, during the present session, on the treasury, will be several thousand dollars; and the mass of printing, as well as of original papers and documents as of those heretofore presented and printed, appears to be enormous. In addition to the ordinary printing, thirty thousand dollars were expended on the diplomatic correspondence—some one or two hundred thousand dollars are expending in reprinting the old documents of Congress; and other projects are on foot, the printing of which may involve the expenditure of half

a million of dollars. The members of Congress will undoubtedly be credited for great liberality by the gentlemen printers who are favored with the munificent contracts; but would it not be quite as much to the credit of our disinterested liberality if we furnished our libraries at our own expense, as if we do it at the expense of the public treasury? A Senator from Maine said, the other day, that "this Senate was constituted as a bulwark against the popular will." I hope to see the time arrive when this body, and all other bodies in this Government, who take part either in enacting or executing the laws, shall be amenable only to an enlightened and virtuous popular will. I do not believe that an intelligent people will countenance the principle of the public servants converting the public property to their own future use while engaged temporarily in the public service; and, for the purpose of contesting this principle, I move that the resolution be laid upon the table.

Mr. FRELINGHUYSEN said, the Committee on the Library had been induced, by public considerations, to offer the resolution, not imagining that they would elicit by it a philippic against the bank. The book contained valuable information against the bank, and in favor of it; all the arguments ever used against it by its opponents were here to be found. All the debates and decisions had in reference to the bank, for the last thirty years, were contained in this volume. It was true that our tables were laden with papers respecting this institution; but were they from its friends or its opponents? From day to day we have had resolutions, and answers to resolutions, laid on our tables at the wish of those who were opposed to the bank. At this stage of the business, when the bill for rechartering the bank has been reported, and is about to come before us for discussion and decision, what is so apposite, what so proper, what so necessary, as to place before the Senate the information furnished by this book? He would not step aside from the question to defend the bank. It had been called a monopoly. What did it monopolize? Nothing but the public confidence. It had brought a spurious currency into a sound currency, and, thereby, it was the poor man's friend. If he sought popularity, if he could stoop to the dunghill for praise, he would vote in favor of the bank, as the poor man's friend. Nothing but this bank stood between the poor, honest, and industrious citizen, and the dealers in spurious local currency, by which the poor were defrauded of a large portion of their hard earnings. The other day, the Senator from New Hampshire had voted, without compunction or dispute, for a resolution for printing a report of the British House of Commons on alum salt—a subject of much less importance than that which was to cost one thousand nine hundred dollars. The sum which this resolution appropriated was not over three hundred dollars. He loved the people, but would not stoop to flatter them. Popularity or no popularity, he would support such measures as this. He was not afraid that his constituents should know that he voted public money to purchase books for his private use—books to acquaint him with information which, in his public station, he required.

Mr. BENTON had not intended, he said, to say a word in relation to this question, nor should he now rise to speak upon it, but for what had fallen from the Senator from New Jersey. That gentleman had gone from the resolution to the bank, and from the bank he had gone to statements respecting his resolution on alum salt, which were erroneous. Day by day, memorials were poured in upon us by command of the bank, all representing, in the same terms, the necessity of renewing its charter. These memorials, the tone of which, and the time of their presentation, showed their common origin, were daily ordered to be printed. These papers, forming a larger mass than we ever had on our tables before, and all singing, to the same tune, the praises of the bank, were ordered

JUNE 11, 1832.]

Bank of the United States.—Alexandria Canal Company.

[SENATE.]

details. If the Senate should decide that the principles of his bill were correct, they would then proceed to consider the details which he should be prepared at a proper time to offer. Should the principles presented by his bill be repudiated by the Senate, there would be no necessity for touching the details. He stated that he was engaged in the preparation of some schedules embracing the details of the bill.

The proposition was then received informally in the shape of an amendment to the amendment.

Mr. CLAY expressed his hope that the proposition would be received by the Senate. He was glad to find that the gentleman from Virginia had devoted a portion of his time to this employment. He hoped the gentleman would proceed in his work, prepare his schedules, and furnish them to the Senate, that they might be printed, and, at a proper time, receive the consideration of the Senate. He would refrain from any observations, at this time, on the subject of the principles of the bill. He should be pleased, however, to see, in an authentic and responsible form, the views of every individual Senator, and, were it possible, of every member of the House of Representatives, in order that the whole might be considered together, and that the good might be extracted, and incorporated into a bill.

Mr. WEBSTER hoped that it would be understood that the schedules in preparation were also to be printed, as they might be furnished by the gentleman from Virginia.

The CHAIR replied that it would be so understood.

The amendments were then ordered to be printed; and the bill was then laid on the table.

BANK OF THE UNITED STATES.

The bill to modify and continue the act to incorporate the subscribers to the Bank of the United States was read a third time.

The question being on its passage,

Mr. WEBSTER asked for the yeas and nays on this question, and they were ordered.

Mr. MANGUM then spoke briefly in exposition of the reasons which would compel him to vote against the passage of the bill.

The question was then taken, and decided as follows:

YEAS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins.—28.

NAYS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Tazewell, Troup, Tyler, White.—20.

On his name being called,

Mr. DALLAS said that, being called to vote on the passage of the bill, he felt it to be his duty to make a brief statement to the Senate. He had been returned to the Senate on the list of stockholders, as holding a part of the stock in the bank. As soon as he found that this subject would come in for discussion, he had directed the stock which he held in the institution to be sold. It had been sold, he had received the amount of the sales, and had no longer any interest in the bank.

On his name being called,

Mr. SILSBEE said that he perceived his name on the list of stockholders. He had disposed of his stock before this question came before Congress, and was no longer interested in the institution.

On his name being called,

Mr. WEBSTER said that he had seen his name on the list of the returns; but that the insertion was altogether a mistake of the clerk at the bank in Philadelphia.

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The bill was then passed, and sent to the other House for concurrence.

ALEXANDRIA CANAL COMPANY.

On motion of Mr. CHAMBERS, the Senate then proceeded to consider the bill for the benefit of the Alexandria Canal Company.

The question pending being on the motion of Mr. SMITH to insert the word "thirty" after the words "one hundred," increasing the appropriation to 130,000 dollars; and to insert after the provision for an aqueduct, the words "and sixteen feet on each side thereof for a free bridge."

Mr. FORSYTH asked for the yeas and nays on this question.

Some discussion took place on the subject of the amendment, when, on motion of Mr. HAYNE, the question was divided, and the order for the yeas and nays on the first branch, the insertion of the word "thirty," being withdrawn, the motion was negatived.

The question being then on the motion to insert the words in reference to the free bridge,

The amendment was advocated by Mr. FORSYTH and Mr. HAYNE; and opposed by Mr. CLAY, Mr. MILLER, Mr. TYLER, Mr. FOOT, and Mr. CHAMBERS.

The amendment was advocated on the ground that the aqueduct would be injurious to the interests of Georgetown, and destructive to the rights of General Mason in his ferry; and that the only consideration which Georgetown could receive in return was in the form of a free bridge for her benefit.

It was replied that Alexandria had not received her share in the distribution of the funds received by the Government from the sales of public lands within the District, and that she ought to be gratified in this her first application to Congress for aid; that the opposition of Georgetown to the measure was ill-timed and unkind; and that the rights of General Mason in the ferry would be protected. It was further declared that there was no disposition on the part of Alexandria to injure Georgetown, or to interfere with the rights of General Mason; and a pledge was given by Alexandria that she would at any time permit a free bridge to be built on the piers of the aqueduct, and that any injury to the owner of the ferry would be equitably adjusted.

It was then explained by Mr. CLAY, in compliance with a suggestion from the authorities of Georgetown, that there was no opposition intended to the wishes of Alexandria.

Mr. CLAY complimented the gentleman from Virginia [Mr. TYLER] and the gentleman from South Carolina [Mr. MILLER] on their union with him on this question of internal improvement; and expressed a hope that they would extend their new feelings beyond the District. In reference to the protests against the system, he related an anecdote, in substance as follows:

After a certain message of a late President of the United States, about the year 1825, which, with a great deal of eloquence, enforced the propriety of a system of internal improvements, there was a great deal of alarm excited through the ancient dominion of Virginia on the subject of this official document. Some of those gentlemen who participated in this alarm, were deputed to wait on Mr. Jefferson, and to ask his advice how they should act in this emergency, in this melancholy condition to which the commonwealth had been reduced. After they had set forth their complaints, and their desire that he would advise them how to act—"why," said Mr. Jefferson, "I'll tell you." They had talked about protests, resolutions, &c. "I'll tell you," said Mr. Jefferson—"make a protest! make a solemn protest! and then get as much of the money as you can.

The yeas and nays were then ordered on the second

- a bill from the Senate to renew and modify the charter of the Bank of the United States was twice read and debated, 3454; resumed, 3507; again taken up, 3835; ordered to a third reading, and passed, 3852.

H. of R.]

Bank of the United States—Public Lands.

[JULY 3, 1832.]

Mr. MERCER, to give his views in support of the resolution.

Mr. TAYLOR opposed it, as he did not think the resolution would cure the evils, and he was sure it would lead to many others.

Mr. MITCHELL also opposed the resolution, because, although the present practice might be susceptible of abuse, yet it was seldom abused, &c.

Mr. WILLIAMS, to put an end to the discussion, moved the previous question; which being carried, the question was put on the adoption of the resolution, and was decided in the negative—yeas 81, nays 89.

The bill to modify and renew the charter of the

BANK OF THE UNITED STATES,

Coming up for a third reading, and the question being on the motion of Mr. MERCER to reconsider the vote by which the House had on the previous night refused to allow the previous question to be then put,

Mr. CLAY moved to lay Mr. M.'s motion on the table; but consented to withdraw that motion upon the request of

Mr. TAYLOR, of New York, who made an explanation respecting the manner in which he had voted yesterday, and advocated the reconsideration.

Mr. CLAY now renewed his motion to lay the motion of Mr. MERCER on the table.

After various inquiries in relation to order had been put to the Chair, and answered,

The question on laying the motion to reconsider, &c., on the table, was put and carried—yeas 80, nays 62.

Mr. LEWIS, of Alabama, moved to strike out the seventh section of the bill, and insert in lieu thereof a provision that the bank should not take a higher rate of interest on its loans or discounts than five per cent.

Mr. THOMSON, of Ohio, inquired whether it would be in order for him to move to amend the section before it should be stricken out.

The CHAIR replying in the affirmative,

Mr. THOMSON offered the following as an amendment:

"A tax not exceeding eight per cent. on the dividend annually collected and declared, which tax shall be paid into the treasury of each State in which said bank shall make discounts, either by itself or its branches, in proportion to the amount of dividends collected in each State; which said tax shall be paid on the 4th day of March in each year, during the term of fifteen years; and a statement of the amount so paid by the bank shall be made by the president thereof to the Secretary of the Treasury of the United States on or before the 1st day of April in each of the fifteen years aforesaid."

Mr. DEARBORN thereupon moved the previous question; which was seconded—yeas 94.

The previous question was then put as follows: Shall the main question be now put? and decided by yeas and nays in the affirmative—96 to 82.

The main question was then stated on ordering the bill to be read a third time.

The yeas and nays were demanded, and a call of the House moved by Mr. RENCHER.

The House was thereupon called, when it appeared that 186 members were present. The absentees were then called, the doors closed, and some excuses offered and received.

Mr. TAYLOR moved to suspend further proceedings.

Mr. HOFFMAN demanded the yeas and nays; which were ordered. The motion to suspend the call was then withdrawn, and the Sergeant-at-Arms was sent to require the attendance of the absentees.

After waiting some time,

Mr. TAYLOR renewed his motion to suspend further proceedings on the call.

Mr. HOFFMAN demanded the yeas and nays on the

motion, which were refused; and the House then suspended further proceedings.

The question then recurring on ordering the bill to a third reading, was taken, and decided by yeas and nays as follows:

YEAS.—Messrs. Adams, C. Allen, H. Allen, Allison, Appleton, Armstrong, Arnold, Ashley, Babcock, Banks, N. Barber, J. S. Barbour, Barringer, Barstow, I. C. Bates, Briggs, Bucher, Bullard, Burd, Burges, Choate, Collier, L. Condict, S. Condit, E. Cooke, B. Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, J. Davis, Dearborn, Denny, Dewart, Doddridge, Drayton, Ellsworth, G. Evans, J. Evans, E. Everett, H. Everett, Ford, Gilmore, Grennell, Hodges, Heister, Horn, Hughes, Huntington, Ihrie, Ingersoll, Irvin, Isaacks, Jenifer, Kendall, H. King, Kerr, Letcher, Mann, Marshall, Maxwell, McCoy, McDuffie, McKennan, Mercer, Milligan, Newton, Pearce, Pendleton, Pitcher, Potts, Randolph, J. Reed, Root, Russel, Semmes, W. B. Shepard, A. H. Sheperd, Slade, Smith, Southard, Spence, Stanberry, Stephens, Stewart, Storrs, Sutherland, Taylor, P. Thomas, Tompkins, Tracy, Vance, Verplanck, Vinton, Washington, Watnough, E. Whittlesey, F. Whittlesey, E. D. White, Wickliffe, Williams, Young.—106.

NAYS.—Messrs. Adair, Alexander, Anderson, Archer, J. Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Bouck, Bouldin, Branch, Cambreleng, Carr, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Conner, W. R. Davis, Dayan, Doubleday, Felder, Fitzgerald, Foster, Gaither, Gordon, Griffin, T. H. Hall, W. Hall, Hammons, Harper, Hawes, Hawkins, Hoffman, Hogan, Holland, Howard, Hubbard, Jarvis, Cave Johnson, Kavanagh, Kennon, A. King, J. King, Lamar, Leavitt, Lecompte, Lewis, Lyon, Mardis, Mason, McCarty, McIntire, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Polk, E. C. Reed, Rencher, Roane, Soule, Speight, Standifer, F. Thomas, W. Thompson, J. Thomson, Ward, Wardwell, Wayne, Weeks, Wheeler, C. P. White, Wilde, Worthington.—84.

Mr. BEARDSLEY now moved to suspend the rule to make way for a motion that the bill receive its third reading this day.

Mr. REED, of New York, demanded the yeas and nays on this motion; which being ordered and taken, the rule was suspended—yeas 124, nays 60.

Mr. DEARBORN now moved the previous question; which being seconded by a majority of the House,

Mr. BOULDIN demanded the yeas and nays on the previous question; which being taken, stood—yeas 109, nays 76.

So the previous question was ordered.

The main question was then accordingly put, "Shall this bill pass?" and was decided in the affirmative by yeas and nays as follows—yeas 107, nays 85.

So the bill was passed, and returned to the Senate as amended.

Mr. J. S. BARBOUR having been called out for a few minutes on representative duty, and being thereby absent when the question was put, requested leave to record his vote.

Mr. W. R. DAVIS said he was similarly circumstanced; but leave was refused to both.

PUBLIC LANDS.

The bill from the Senate providing for the distribution of the proceeds of the public lands coming up for consideration,

Mr. WICKLIFFE moved that it be committed to the Committee on Public Lands, and supported his motion by some remarks, to show the propriety of so referring the subject.

Mr. VINTON replied, and opposed the commitment as tending to delay, which must be fatal to the bill.

In presenting to the view of Congress the means of the Government, the bonds due for duties, which are now in suit, have been reserved for this place. The amount of bonds remaining in suit since the commencement of the Government, may be estimated on the 30th September last at \$6,835,821 63; of this sum it is believed that not more than one million of dollars could, under any circumstances, be recovered. The debtors, however, remain legally liable for the whole amount; and, without the hope of ever paying, are thereby kept in a state of poverty and helplessness.

The act passed at the last session of Congress for the relief of certain insolvent debtors, according to the construction which has been given to it, has afforded but little relief to those for whom it was probably intended. It will be the duty of the undersigned, in a subsequent report, in conformity with that law, to lay before Congress the principles and manner of its execution. It may not be out of place, in the mean time, when presenting a general view of the financial means of the Government, to recommend that no reliance should be placed on these debts.

The punctuality of the American merchant in the payment of duties, in every period of our history, and under the most severe vicissitudes, is deserving of the greatest admiration. Of the whole amount of custom-house bonds, falling due in the first three quarters of the present year, only \$46,965 76 have been unpaid. Of seven hundred and eighty-one millions of dollars secured for duties from the commencement of the Government to the 30th of September last, the whole loss may be estimated to be less than six millions of dollars. These delinquencies are believed, in most, if not in all instances, to have been the result of unavoidable misfortune, involving, in the ruin of the principal, the sureties required by the laws of the United States. In most cases, the United States, by means of the existing priority acts, have obtained the benefit of whatever property the debtors possessed at the time of their insolvency. In many instances, their general creditors have either released, or would be willing to release, them, if the claim of the Government did not render such an act of liberality unavailing. By this means a large number of our fellow-citizens, of fair character and intelligence, and qualified by their exertions to promote the prosperity of the country, are paralyzed in their industry, and deprived of the means of providing for their families, and contributing to the general stock of labor. It is respectfully submitted to the wisdom and generosity of Congress, whether the occasion of extinguishing the national debt, and relieving the burdens of the community at large, and where the greatest amount likely to be recovered is not required for the public exigencies, is not also propitious for giving absolute relief to those enterprising men who, in times of difficulty and need, contributed to enrich the public treasury. The period of the total extinguishment of the national debt will be a period of national rejoicing, and might be properly signalized by such an act of grace to this unfortunate class of our countrymen.

Should Congress, however, desire to compel the payment of any portion of these debts, or to discriminate among the objects of its clemency, it is believed that a law of greater scope than the present, authorizing an inquiry into the facts, and a discharge of the debtor where there is no fraud, with or without payment of any particular amount, and returning to each debtor a reasonable per centage of the sum paid, is recommended as expedient and necessary.

The Secretary of the Treasury also transmits a report from the Commissioner of the General Land Office, showing the state of the affairs of that branch of the department. All which is respectfully submitted.

LOUIS McLANE,

Secretary of the Treasury.

TREASURY DEPARTMENT, 7th December, 1831.

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BANK OF THE UNITED STATES.

HOUSE OF REPRESENTATIVES, March 14, 1832.

REPORT OF THE MAJORITY.

Mr. CLAYTON, on behalf of the majority of the committee appointed on the 14th of March, 1832, to inspect the books, and examine into the proceedings of the Bank of the United States, made the following report:

In obedience to a resolution of the House of Representatives, the committee appointed under the same, proceeded to the city of Philadelphia, and commenced the inspection of the books, and the examination of the proceedings of the bank, on the 23d of March last; and, after the most attentive and laborious investigation which their limited time would allow, the majority have prepared the following report, which they beg leave to submit to the House of Representatives:

They believe that, as the House wished information, more for the purpose of enlightening their minds, and assisting their judgments as to the expediency of again renewing its charter, than to abridge it of the small remnant of time left for its operation, a liberal construction of the resolution would not be deemed a departure from their trust; consequently they have directed their inquiries to two general objects:

1st. Whether the provisions of the charter had been violated;

2d. Whether there had been any circumstances of mismanagement against which future legislation might guard, or which should destroy its claims to further confidence.

On the first point, following the example of a former committee making a similar investigation, they will submit to the House, without expressing any opinion, such cases as have been subjects of imputation against the bank.

These cases they conceive to be six in number, and are as follows:

- 1st. In relation to usury;
- 2d. In relation to the issuing of Branch orders as a circulation;
- 3d. The selling coin, and particularly American coin;
- 4th. The sale of stock obtained from Government under special acts of Congress;
- 5th. Making donations for roads and canals, and other objects;
- 6th. Building houses to rent or sell, and erecting other structures in aid of that object.

On the first ground, the president of the bank refers us to a statement, marked G, and says it will "explain the only cases to which this description might be considered applicable, two of them being cases in which the board repaid the amount considered overcharged; and in regard to the third, no application has been made for any change in the form of the original loan. See said statement, marked No. 1.

To a question asked the president, whether any cases of disguised loans, and domestic bills of exchange, had come to the knowledge of the parent bank, in which the branches had received usurious interest, he replied, he had never heard of any, but made a further statement, marked No. 2, in which he states that the usual custom is to charge upon domestic bills of exchange the rate of interest and the rate of exchange, and if the sums united should exceed six per cent. it is not usury, and gives an explanation in said statement.

On the second ground, the committee will submit document number 3, and its enclosures, in which the cause and origin of branch drafts will be fully seen. The president states, "the inability of the bank to furnish the amount of circulating medium which it was created to supply, became apparent at an early period. In a year after its organization, the directors presented a memorial

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Bank of the United States.

to Congress, dated 9th January, 1818, requesting that an alteration might be made in the charter, so as to authorize the president and cashiers of the several branches to sign the notes issued by those branches." See copy of the memorial, marked 3, a, in which it is stated, "that, inasmuch as the 'act to incorporate the subscribers to the Bank of the United States' requires that the bills or notes which may be issued by order of the said corporation, shall be signed by the president, and countersigned by the principal cashier, it has been found impracticable to supply, in any reasonable degree, the required circulation from the bank and its numerous offices of discount and deposit;" it is, therefore, asked of Congress to permit the president and cashiers of branch banks to sign and issue bills. The application was not granted. The president states, "the subject was resumed by another memorial, dated November 24th, 1820." See copy of the memorial, marked 3, b, in which it is stated, "under the charter it has been doubted whether the bank has power to authorize the issuing of notes not signed by the president, and countersigned by the cashier. The labor and the time necessary to sign notes for the bank and all its branches, are much greater than either of those officers can bestow upon that object; and hence the bank has been unable to put in circulation a sufficient amount of notes of the smaller denominations, which the public must want, and which are best calculated to serve the interest of the bank." It then requests that power be given to the parent bank to appoint one or more persons to sign notes of the smaller denominations, which was not acted upon.

The president states, the "application was again renewed, and a select committee of the House of Representatives reported in favor of allowing the appointment of signers, on the 27th of February, 1823; but there was no action of the House upon it." And he refers us to "pamphlet, vol. viii, No. 11."

On the 1st of December, 1826, the president was instructed to endeavor to procure the necessary change. He says, "he reported on the 27th of February, 1827, that no action on the subject would take place at that session of Congress, and, accordingly, the matter was referred to the committee on the offices." See Doc. 3, c.

He adds, "the opinion of Mr. Binney, Mr. Webster, and Mr. Wirt, the Attorney General, was taken on the subject of issuing branch drafts." See Doc. 3, c.

On the 6th of April, 1827, the following communication was made to the board of directors: "The committee on the offices, to whom was referred, on the 23d of February last, the report of the president of the bank, stating the unsuccessful result of the application to Congress for an alteration of the charter, which would authorize the signature of notes by other persons than the president and cashier, report, that in various parts of the Union, but more especially in the Southern and Western sections, there is a constant and unceasing demand at the offices for the smaller denominations of notes, which it is impossible to supply." They, therefore, suggest that the "discount offices should be instructed to draw checks on the cashier of the bank for smaller sums than they have hitherto been in the habit of furnishing. In order to save the labor of preparing such checks at the offices, as well for the greater security of the bank and the community, it has been deemed best to prepare the blank forms of a uniform appearance, and to distribute them from the parent bank. Such forms have been accordingly devised, and are now submitted to the board with the recommendation of the committee, that the experiment be tried, and, if found useful to the community, be permanently adopted." See Doc. 3, c.

The document marked 4, d, is a correspondence between the president of the bank and the Secretary of the Treasury, on the character of these bank drafts, which has already been printed, and submitted to Congress.

The paper marked 3, e, contains instructions to the branch banks at the issue of branch orders. On the 21st of April, 1827, the cashier of the parent bank writes a circular to the respective branches, informing them, among other things, that the directors have "deemed it best that blank forms of a uniform appearance should be prepared with skill and care at the parent bank, and thence distributed to such of the Southern and Western officers as seem to stand most in need of them, or to be able best to employ them usefully. Enclosed I send you a specimen of the 5 and \$10 blank drafts adopted. After being numbered, registered, and appropriated here to certain offices, a supply of them will be forwarded as soon as possible, with instructions to the cashier of each office, to have every four hundred drafts in succession, and as they may be wanted, filled in the order of some one officer of the branch, by whom they must be endorsed lengthwise, and about the middle of the draft, payable to bearer, before they be signed by the president and cashier. When completed, they are to be furnished to the customers of the bank, or other persons who may wish to procure them. The entries respecting them, both here and at the branch, are intended, for convenience sake, to be analogous to those of branch notes. Their receipt, under the denomination of branch drafts, is to be similarly acknowledged by the cashier, and in duplicate, through the respective presidents. They are, besides, to be reported on the weekly state of the office, as branch draft paper, received, used, and on hand.

"And whenever they may be in transitu between the offices, must be so noticed at the foot of the statement, like other packages."

On the 7th of January, 1831, a resolution passed the board to issue drafts of the denomination of twenty dollars. These branch orders, when discharged by the parent bank, are again re-issued by that bank when it has no small notes of its own. The paper marked 3, f, contains a statement of the amount of branch drafts issued, on hand, in circulation, and the offices from whence issued. By this table it will be perceived that 10,781,635 dollars, have been issued; 3,371,544 dollars are on hand; and 7,410,090 dollars are in circulation.

The foregoing is a succinct history of the issue of branch drafts. Whether it can be justified under the charter of the bank, the committee will leave to the better judgment of Congress.

The third case is the selling coin, and particularly American coin. The attention of the committee was drawn to this subject by the fact that the General Government had, on one occasion, to pay the bank two per cent. on ten thousand Spanish dollars, which it wanted for the benefit of the navy in South America. To an interrogatory put to the president on this subject, he replied, "the bank is authorized to deal in bullion. It buys and sells bullion. All foreign coins are bullion. Their being a legal tender does not make them the less bullion, and the bank having bought them at a premium, sells them at a premium. The obligation of the bank is, to pay the claims on it in coin, American coin, or legalized coin; and if the foreign coin is worth, intrinsically, or commercially, more than the American coin, the difference in value must be worth the difference in specie, and there seems no reason why the bank should sell its bullion any more than its bills of exchange, at less than their value." He then refers the committee to a correspondence, marked No. 4.

Although the bank acted under legal advice, it may be well questioned whether foreign coin is bullion. The constitution gives to Congress the right to regulate its own and foreign coin; when, therefore, the latter has a value prefixed to it by law, and is suffered to be used with that regulated value in like manner with our own coin, it would seem not to have lost the name and charac-

ter of coin, and is made by force of law what it would be if carried through the mint, and subjected to the condition of our own coin; and, therefore, to deal in it as a commodity, is calculated to disturb its legal value, and render at least that portion of the metallic currency uncertain and fluctuating.

If, however, the committee have taken a wrong view of this subject, so far as foreign coin is concerned, it seems, by the statement of the president of the bank, to be virtually admitted that our own coin is not bullion, and, therefore, does not come within the objects of trade allowed the bank by the ninth fundamental rule of the charter. By reference to the statement of specie sold by the bank; marked No. 24, it will be found that the sum of \$84,734 44 of American gold coin has been parted with.

The fourth case is selling stock obtained from Government under special acts of Congress. They have thought it their duty to present the subject to the consideration of Congress.

It is necessary here to observe that the charter must have intended some meaning in prohibiting the bank from dealing in stocks. There is, perhaps, no subject so fruitful in speculations as stocks, and none which is so fluctuating, and liable to be influenced by the slightest causes, often producing ruin or immense fortunes in the most sudden manner. To prevent such a great moneyed institution, then, as the bank from dealing in this article, which its vast means could raise and depress at pleasure, seems to have been a wise provision in the charter. The right of the bank to acquire or sell stocks, is a special one; it must be done by virtue of a law of Congress. The charter itself provided that a part of its capital might be paid in the stock of the Government, and such stock, particularly, might be disposed off. But the committee suggests whether this will apply to other stocks obtained by virtue of a subsequent law of Congress, unless that law specially confers the power to dispose of it. In two important loans obtained from the Government since the charter was granted, the bank has parted with a valuable stock; and these cases will illustrate the point now submitted to Congress. While the committee refer to the transactions of the bank in the funded debt of the United States, for the purpose above mentioned, they also have in view the presentation of the subject, to show not only the manner of disposing of that stock, but whether it was not contrary to the express understanding with the Government at the time of obtaining the stocks. For the loan of \$4,000,000 of five per cents., made in 1821, and the \$5,000,000 of four and a half per cents., made in December, 1824, there was strong individual competition, at a premium for a part or the whole, against the bank; yet the bank had a preference over the individual offers, upon the principle that it would be more advantageous to give it to the bank at a reduced rate, and participate as a partner, than to give it to individuals at a premium. This was confirmed at the treasury.

The president of the bank, in a letter dated 15th December, 1824, which will be found among the documentary testimony, after saying he had taken the whole of the \$5,000,000 loan at par, says, "and since we have taken the loan at par, on the distinct ground of our having the means of doing it, it would be advisable, in every point of view, not to sell any of the Florida loan in Boston." By a statement of the amount of funded debt sold by the bank, marked No. 6, it will be seen that, as early as June and July, 1826, the year after it was taken, the bank began to sell this stock, and continued to do so, sometimes at a premium, and sometimes at a loss, up to the 27th day of November, 1829, on which day they had disposed of all but \$93,925 92, and that too at a loss of \$4,443 34, notwithstanding offers were made by individuals for a large amount, at a premium, and rejected by the Government, upon the principle before stated. The same document shows that there was, between February, 1829, and

October of the same year, sold, of the 5,000,000 dollar Florida loan, \$1,742,261, at a loss of \$17,661 09. For this loan, the committee are not aware of there being any offers by individuals at a premium. The same document shows that between February, 1826, and February, 1832, the whole of the 4,000,000 dollar loan of five per cents. of 1821, has been disposed of at a premium of \$136,789 25. The premium paid for which, at the time it was taken, was provided for in a semi-annual appropriation of 60,000 dollars, in the report of the 1st of July, 1821, before adverted to. By these operations, it will be obviously perceived that, if the bank is allowed to sell stocks acquired by special agreements with the Government, it can secure, by speculations, all the advantage which the Government might possess, in putting up its loans to the highest bidder. It not only destroys competition, but takes the loan of the Government from other individuals, who would have given a premium for it, and which the Government refuses, because it expects to derive a greater profit in another way, but in which it may be defeated, by an immediate sale of the loan, and which, if the right to sell by the bank is acknowledged, might have been made directly to those very individuals who had just offered a premium. In relation to the four million loan of five per cents. of 1821, Mr. Cheves, in his report on the 1st October, 1822, says: "The four million loan of five per cents. are longer irredeemable than any other stock of the Government of the United States, and hence probably this stock is more valuable than any other stock of the United States." He also says, "the more the bank can retain of this stock, the better for the institution." In the whole of which, the committee most fully concur: for it may be mentioned with feelings of pride, that such is the high credit of the Government, its stock is better than specie, and would be to the bank, in any emergency, precisely the same.

The committee proceed to mention the fifth case, which is making donations for roads, canals, and other objects, the amount of which is 4,620 dollars, as will appear by document No. 7. Two of the largest of these items, amounting to three thousand dollars, are for turnpike roads, made, too, after the General Government had declined to make appropriations for similar objects.*

The question would naturally arise, whether the public funds in the bank (for that institution is expressly founded upon the principle that it is necessary to, and constitutes a part of, the treasury of the United States,) can be appropriated to objects indirectly, by the officers of that institution, when the Government directly refuses to expend its revenues on the very same objects. The committee have looked in vain for any authority in the charter to give away the money of the stockholders. If the charter contains the power by which the bank is to act, and they are to be strictly pursued, there is then no grant to make gratuities for any object whatever.

The consequences of the exercise of such a right might be fraught with very great injury to the stockholders: certainly, of dangerous interference in the rival trade of different sections of the country, and of pernicious influence upon the operations of Government.

The committee approach the last ground, which is the building houses to rent or sell, and erecting other structures in aid of that object. They will merely present the fact and the law, and leave the House to place their own construction upon the case.

By an extract from the minutes of the board of direc-

* The President furnished this statement without explaining the grounds of these donations, no explanation having been particularly required of him. It is possible that the improvements were in the neighborhood of the real estate of the bank, and are made upon the ground that said donations would increase the value of that real estate.

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tors, communicated to the Senate on the 12th day of March last, the following facts appear, viz:

"The committee on the offices, to whom was this day referred a letter to the President from George W. Jones, agent, dated May 23d, recommending to the bank the construction of two canal basins, and the erection of warehouses around one of them, according to the plan submitted by him, recommend to the board the adoption of the following resolution;

"Resolved, That the board approve of the formation of two canal basins at Cincinnati, proposed by Mr. Jones; one of them to be on square number fifty-five, (55,) and the other one to be on the square of ground between Walnut and Vine streets, and Canal and St. Clair or Court streets; and that he be authorized to erect forthwith warehouses on the margin of this last mentioned basin, not exceeding six in number, either in one block or separately, as he may deem most expedient for the interest of the bank."

These six warehouses were built. It is also understood, says the same extract, that several other houses have been built by the agent at Cincinnati; but as they were erected in part by contributions in labor and materials, by debtors to the bank, who had no other means of payment, and, in part, by direct disbursements, no accurate statement of either their number or cost is on file. The agent has been instructed to specify these details, in order to complete this return.

In reference to the foregoing, the committee believe it enough merely to quote the following provision of the charter, to wit: "The land, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of its business, and such as shall have been *bona fide* mortgaged to it, by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts."

This closes the view of the committee on the subject of the violation of the charter.

In considering the second general head, as to any circumstances of mismanagement of the bank, your committee have fully appreciated the delicate character of some of the duties assigned them, and the high responsibility of the office of inspecting the books, and examining into the proceedings of the Bank of the United States.

In discharging that trust, they have not felt themselves at liberty to inquire into the private concerns of any individuals, of any denomination, unless the public interest was involved in their transactions with the president and directors of the bank. The investigation was ordered by the House under peculiar circumstances, and in anticipation of a debate on the renewal of a charter to a national bank, whose annual operations amount to two or three hundred millions of money, whose influence extends to the remotest parts of the Union, and whose connexion with the Federal Government gives it a public character. Impressed with the importance of the great variety of interests involved, your committee have executed the office assigned them, by inquiring, generally, into the proceedings of the bank, not only for the purpose of ascertaining whether its powers had been violated or abused, to the injury of the private and public interests of the country, but with a view to obtain information for the use of the House, and to suggest, should Congress determine to continue a national bank, such modifications as the proceedings of the existing institution would seem to have rendered necessary.

Adhering to these rules, the committee believed it entirely within their province to inquire whether the influence of the bank, acknowledged by all to be of vast con-

trol, and, if improperly directed, of dangerous tendency, had insinuated itself either into the management of the press or the direction of the Government. This could only be done by an examination of the transactions of the bank with editors and public functionaries. And here the committee wish it to be distinctly understood, that they do not pretend to set up the absurd idea, that editors or officers are excluded from the right common to the rest of the citizens, of borrowing money when and where they please, from banks or individuals, without being answerable, in the slightest degree, to any person whatever. But while this admission is demanded by the clear rights of the parties to whom it relates, it will not be denied that, if they obtain more favors than the rest of their fellow-citizens, it is, at least, a just cause of complaint against the bank; and however they may be innocent of any improper or sinister connexion with that institution, it does not, by any means, disprove the fact, that some other influence may have been intended to operate upon their minds, wholly unsuspected by them at the time. If, therefore, it should appear that these individuals receive larger loans than those who are its usual customers, that they receive these loans without the security usually required under circumstances not known in any other case, it would seem to the committee, that, instead of a complaint from those whose transactions with the bank have thus been investigated, the grievance is entirely on the other side. Whether such cases do exist, the committee will leave to the better judgment of the House to decide upon the facts which they have collected, and now respectfully submit.

It had been repeatedly alleged that the bank had employed its funds for the purpose of subsidizing the press, and the charge was reiterated during the debate upon the resolution authorizing this inquiry. The attention of your committee was particularly drawn to this subject, at an early period of their examination, by a communication from an editor of a New York paper, who had been accused, to a member of the committee, through the president of the bank. The evidence relating to this case will be found in papers marked Nos. 8 and 9, and in which are presented the following facts: On the 26th of March, 1831, a Mr. Silas E. Burrows applied to the president of the bank, and informed him, in the language of the president, that "he was desirous of befriending Mr. Noah, and assisting him in the purchase of a share in a newspaper; and he asked if the bank would discount the notes of these parties, adding that, although as a merchant he did not wish to appear as a borrower, or to put his name on paper not mercantile, yet he would, at any time, do so, whenever it might be necessary to secure the bank. I do not recollect, says the witness, whether he then mentioned the time which the notes would have to run. The committee being authorized to discount any paper the security of which they might approve, agreed to do them. As Mr. Burrows was going out of town, I (the president and witness) gave him the money out of my own funds, and the notes were afterwards put into my possession. They remained with me a long time, as I had no occasion to use the funds, nor was it till the close of the year that my attention was called to them by the circumstance that a new board of directors and a new committee of exchange would soon be appointed: the same committee which made the loan should consummate it.

I had seen, also, in the public prints, many reproaches against the bank for lending money to printers and editors, and I was unwilling that any loan made by the bank should seem to be a private loan from one of its officers. Having no use for the money, it would have been perfectly convenient to let the loan remain as it was, but I thought it right that every thing done by the bank should always be distinctly known and avowed, and, therefore, gave the notes to the chairman of the committee, Mr.

Thomas P. Cope, who entered them on the books. This is the account given by the president himself of the transaction in its origin. The money, fifteen thousand dollars, was advanced on the 26th of March: the notes bear date on the 1st of April thereafter, and were ten in number, for fifteen hundred dollars each, with the interest added on as they respectively became due, which was on the 1st of April and October of the years 1832, '33, '34, '35, '36, and amounted, with the interest thus added, to seventeen thousand nine hundred and seventy-five dollars. At the time they were entered on the books of the bank, on the 2d of January last, the President received the money for them. These notes were placed on the books of the bank at this time, and it will be seen on the 2d of March they were withdrawn, as will appear hereafter. On the 9th of August last, after the foregoing transaction had taken place, J. W. Webb and M. M. Noah made an application to the bank for a loan of twenty thousand dollars, accompanied by a letter from a gentleman formerly a director of the Bank of the United States, to the president of the bank, in the following words: "I cheerfully forward the enclosed as requested. I see no reason against this application being treated as a fair business transaction. This was accompanied with sundry letters of Webb and Noah, and the depositions of persons in their service as to their solvency, and ability to pay the loan requested, all of which will be found, marked No. 9. This loan, at six months, was granted, with no other security but that which is just mentioned, and was the largest loan made on that day. On the 16th of December following, another application was made, by these same parties, for a loan of fifteen thousand dollars, which was granted, for six months, by the exchange committee, without any additional security or recommendation. At this time there was a considerable pressure in the money market, and many notes of the citizens of Philadelphia were rejected. It was one among the largest loans on that day. These loans, together with the loan made in March, to Burrows, amounted to the sum of fifty-two thousand nine hundred and seventy-five dollars, which consisted of notes drawn and endorsed by the editors only.

The committee will now submit the facts in relation to the manner in which this loan has been disposed of, first premising that the resolution for inquiring into the affairs of the bank, was introduced into the House on or about the 17th of February. The loan of August was reduced two thousand dollars at its maturity, on the 10th of February last. On the 2d of March last, Mr. Silas E. Burrows obtained from the exchange committee discounts to the amount of thirty-two thousand four hundred and forty-six dollars, being the largest sum loaned on that day, and while many notes of citizens of Philadelphia were rejected. That the notes for seventeen thousand nine hundred and seventy-five dollars, payable in 1832, '33, '34, '35, and '36, were paid and withdrawn by him on the 2d of March, without the knowledge of Webb and Noah, as they state. On the 14th of the same month, Burrows obtained another discount from the bank, of fourteen thousand one hundred and fifty dollars; and on the 15th of the same month, the note of Webb and Noah, for fifteen thousand dollars, loaned them on the 16th of December

though strictly defensible, is a large one, and the amount may give rise to the charge of indiscretion on the part of the directors. This it is not only our duty, but our desire, to prevent, if possible; and, therefore, with some little inconvenience to ourselves, we have made arrangements to pay the note of fifteen thousand dollars in the course of a few days."

The evidence of the president of the bank explains the character of these various loans, and the circumstances which induced him to be satisfied with the security, and to make these advances, which, together with all the testimony and correspondence on this subject, will be found in the papers marked No. 9.

In that evidence it is stated, by the testimony of Webb and Noah, that they knew nothing of the first fifteen thousand dollar loan made by the president of the bank to Burrows; that Burrows made them believe the fifteen thousand dollars were loaned to Noah by his father, and that he had his father present to carry on that transaction, and for which loan Noah allowed Burrows two and a half per cent., and did not receive it all for some months after giving his notes; that the notes were discounted by the bank, in their names, without their knowledge, and paid off in the same way. It will appear by the testimony of Mr. Webb, that the paper of which he is the editor, made two publications in the latter part of 1829, favorable to the establishment of branches; that, shortly thereafter it commenced its opposition to the bank, and was, for sixteen months, warmly opposed to it; and that, on or about the 8th of April, 1831, it changed its course in favor of the bank. Connected with this fact, is an admission, on the part of one of the editors, that before the first loan was negotiated, he held a conversation with a gentleman, through whom the loan was then negotiating, (who the committee know to be Burrows,) in which he, Burrows, urged the editors, one of whom Webb, had expressed himself in favor of a modified recharter, to advocate an unconditional renewal, "but expressed great satisfaction at learning that [one] was in favor of a charter under any circumstances."

The committee will state they were anxious to obtain the testimony of Burrows, but were unable to do it. A subpoena was issued for him, and sent to New York, to which the marshal returned he was not to be found. It was then sent to Washington city, and the sergeant-at-arms made the same return. The marshal of Pennsylvania was directed, by the chairman, to make and continue a search for the witness in Philadelphia, having heard of his expected arrival at that place; that the marshal reported to the chairman that he ascertained that the witness had arrived at that place on Thursday the 5th inst.; but he was not able to serve the process, because he could not be found.

To an inquiry whether there were any other instances of notes being discounted for the accommodation of any merchant and trader, at one, two, three, four, and five years' credit, unless to secure a debt in jeopardy, there was presented to the committee four other cases.

On the 3d of April the committee, by resolution, called for the following statements, to assist them in the elucidation of certain facts which had appeared in other documents viz:

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but the officers of the bank state their inability to discriminate between those that are good or otherwise.

3d. The aggregate amount of notes discounted on personal security, and made payable more than six months after date, which appear to be only four in number, besides the case of J. W. Webb and M. M. Noah.

4th. The aggregate of notes now due the bank, discounted for a firm or the partners of a firm, without the name of some person not belonging to the firm, as drawer or endorser, distinguishing in each of the above statements the amount loaned to members of Congress, editors of newspapers, or persons holding offices under the General Government. To this last resolution were added the following amendments, viz.: "1st. A statement of the loans made by the bank and its branches to members of Congress, editors of newspapers, and officers of the General Government, and the terms of such loans." "2d. And the names and amounts of payments to members of Congress in anticipation of their pay as members before the passage of the general appropriation bill." "3d. And the amount of money due the United States, and on deposit in the bank, after deducting therefrom the sum thus advanced to those to whom the United States are indebted." "And, lastly, a statement in detail of the amounts paid to those who are now, or have been members of Congress, or officers of Government, since 1816, for services rendered to the bank, stating the nature of the service." For the information sought by these inquiries, see papers marked C. Besides these, there were furnished the statements of loans made to five editors or publishers of newspapers, by which it will appear that the accommodations to those five editors were upwards of one hundred and ten thousand dollars previous to the institution of this inquiry.

The various reports which have, for a long period past, charged the bank with too frequent intercourse with brokers, and also of undue favoritism to certain individuals, as well as the large transactions which exhibited themselves upon many documents called for by the committee, induced them to examine particularly the accounts of the firms of which Mr. Thomas Biddle was and is the chief partner with the bank, as a broker.

Four subjects of investigation presented themselves in relation to their transactions with the bank.

1st. The allowing and paying interest to them on deposits.

2d. Relates to certain loans upon the pledge of stock, and the discounting of notes made to T. Biddle, by the president or others, without the knowledge of the board, and on part of them the pledge of stock without interest. The committee would refer for the particulars of these two charges to the papers marked No. 13.

The third subject is the amount of discounts made T. Biddle, and the rate of interest. The document marked No. 14 will show the amount on the 15th of each month, from the 15th day of September, 1830, to the 15th of February, 1832. By this it appears that, on the 15th of October, 1830, he was discounting upwards of one million one hundred and twenty thousand dollars, and has at no time since been less than four hundred thousand dollars. The committee doubt the policy of such large accommodations to individuals or firms, at any time, as it deprives the bank of the power of fulfilling

1831.	
October 14, 1 bill at 60 days sight, and at a premium of 10½ per cent. -	\$32,399 68
October 14, 3 bills at 75 to 90 and 105 days, and at a premium of 10½ per cent. -	115,411 11
October 22, 13 bills at 40 to 125 days, and at a premium of 11 per cent. -	592,000 00
December 10, 9 bills at 40 to 110 days, and at a premium of 10 per cent. -	506,250 00
1832.	
February 14, 14 bills at 40 to 105 days, and at a premium of 10½ per cent. -	400,000 00
February 14, 3 bills at 50 to 70 days, and at a premium of 11 per cent. -	148,000 00
	<u>\$1,794,060 79</u>

By the foregoing statement, it appears that the bank purchased, between the 14th of October, 1831, and the 14th February, 1832, of T. Biddle & Co., foreign bills to the amount of one million seven hundred and ninety-four thousand sixty dollars and seventy-nine cents.

With regard to these large loans, the committee refer to the statement marked No. 19, by which it appears that, on the 9th of April, 1812, the total amount of discounts on bills and notes at the bank in Philadelphia was seven million nine hundred and thirty-nine thousand six hundred and seventy-nine dollars and fifty-two cents. Of that sum more than two thirds were loaned to ninety nine persons, to wit, five million four hundred and thirty-four thousand one hundred and eleven dollars. More than three millions of dollars were in the hands of twenty-seven individuals, and nearly one seventeenth part in the hands of one person. The committee have already expressed their conviction that these large accommodations to a few individuals are injurious to trade generally, and they will add, that they ought always to be made by either the board of directors, or the committees empowered by them for that purpose. For an explanation of this subject, see papers numbered 13 and 18.

Properly connected with this subject is the accommodation extended by the bank to individuals on the pledge of stock. In all the monthly statements of the condition of the bank, prior to the 1st of March last, there was no column showing these loans. In that month, for the first time, so far as the committee can discover, a new column is exhibited, entitled "loans on other stocks," and which appeared, at that time, to have been transferred from the line called "bills discounted on personal security." This change was made in consequence of a call for stock loans by the House of Representatives. A statement of the same was called for, marked No. 20, which exhibits a list of stocks pledged, consisting of theatre shares, museum stock, arcade stock, railroad and canal stocks, coal company stock, real estate in Louisiana, &c. &c., amounting to the sum of one million seven hundred and thirteen thousand two hundred and ninety-seven dollars and thirty-four cents.

The various transactions in specie, by the bank, have been a subject of special notice by the committee, and various statements called for, show the magnitude of them.

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2d. The amount of specie exported since 1819 will be found in the statement marked No. 22.

To England,	2,598,357 00
To France,	2,257,398 50
	<u>\$4,855,755 50</u>
Of this amount, there was, in gold,	2,387,927 50
in bullion,	596,717 00
in silver,	1,871,111 00
	<u>\$4,855,755 50</u>

3d. The amount purchased since 1824, marked No. 23, shows:

Of silver,	605,850 00
gold coin,	17,596 00
gold bullion,	438,000 00
	<u>\$1,061,446 00</u>

4th. The amount of specie sold since 1817, marked No. 24, shows it to be,

Of which there was American gold,	84,734 44
British, French, and Spanish,	48,291 35
Silver,	5,051,884 50
	<u>\$5,184,910 29</u>

5th. The amount of specie drawn from each of the Southern and Western offices, since 1820, to the Bank of the United States and New York, marked No. 25, shows the total amount to be,

Of which \$20,925,990 07 has been drawn to those places since the 1st of January, 1823,	20,925,990 07
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6th. The amount of specie, (in the same statement,) sent to the Southern and Western branches, since 1819, is,

The premium received on the specie sold, is	97,140 56
The premium paid on the specie purchased, is,	19,171 85
	<u>\$77,968 71</u>

What profits were made on the specie exported, the committee did not call for documents to enable them to ascertain; it must, however, from the great quantity sent away, have been considerable.

The committee called for a statement of all the specie imported by the bank from abroad since 1819; but as none was returned, they presume none was imported.

What proportion of the gold exported was American coin, the committee have not before them the means to determine; it was expected to have been given in the statements; but in looking into them, the gold exported is without a designatory name; it is believed, however, the amount is considerable.

In examining this subject minutely, the committee find that large amounts of the specie have been drawn from the office at New Orleans. Of this there can be no com-

ed as affording greater advantages to the country, in the triennial report of September last, as "economizing" the specie of the country, the committee have felt it a duty to examine and present the subject to the consideration of Congress and the commercial community, believing, as they do, that there is something delusive in the operation. The result of their examination has led them to the conviction that this new method of dealing in bills of exchange does not "economize" the specie of the country at all. It is a universal law of drawing, that funds must either go before or follow after the draft to honor it at maturity; and whether it goes directly or circuitously, the funds to discharge it must, sooner or later, arrive at the place of payment. These bills are to be paid in England; but they go round the Cape of Good Hope before they reach their place of destination. Instead, therefore, of sending the specie directly to India and China, as formerly, who does not perceive that it must now be sent to England, the country upon which these bills are drawn, there to meet them upon their arrival at the place where they are to be paid? The bank consequently becomes the shipper of the specie, to pay its bills, in place of the merchant, to purchase his merchandise in the East Indies. It is simply and purely nothing but a change of the destination of the specie, with only the advantage of its going to London.

The mode in which these bills are drawn and disposed of to the purchasers, having twelve months to run, as will be seen by a copy of the obligation taken by the bank, marked No. 27, the committee consider of doubtful utility to the country. The legitimate object of banks the committee believe to be, granting facilities, not loaning capital. The supplying of bills appears even much more objectionable than loaning capital, for it encourages an operation which commences and ends without the employment of any capital whatever, and is similar in their character to respondentia securities. The buyer is enabled, within the term of credit, to make the voyage, dispose of his goods, and obtain from the proceeds the funds to meet his obligation, and the bank to transmit the same to the place upon which their bills were drawn, (which are at six months sight,) long before they become due. It would seem to produce a greater export of specie eventually than would otherwise take place, if the operations were commenced with specie, and not with bills purchased in the manner described; for the merchant, relying upon his immediate resources, would not engage to such an extent in the business, and would combine in the operation much of the produce of the country; whereas, relying upon an extensive credit, he hazards every thing on the success of the enterprise. It is a species of speculation in trade, leading to great risks, and certainly terminating in overtrading—the evils of which the country is now sorely experiencing. By loans of a similar character, by insurance companies providing funds for traders to China, Government has sustained more loss than in any other branches of trade.

The increase of the number of branches established since 1823 cannot be passed over in silence by the committee, and deserves, as a source of extended influence of the bank, the most serious consideration.

In some few instances, where new branches have been

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and local interests and feelings. For a time we must bear with the branches, but I hope they will be reduced."

Again, in the same letter, he observes "The real and original evil under which the country is suffering, is over-banking. This leads to excess in trading, manufacturing, building, and speculating; and the history of the ill-judged enterprises which have been undertaken in these several concerns, would give a full history of all the distresses of this country, excepting a little agricultural distress growing out of the inordinate expectations which the others excited." These opinions fully accord with the views of the committee, and they consider them as peculiarly applicable to the present time, as exhibiting similar causes now operating with more extended force, from which similar effects must follow, augmented in proportion to the increase of branches.

The stockholders, at the triennial meeting on the 1st October, 1822, recommended a withdrawal of some of the branches then existing, in these words: "In taking into view the business of the bank, as connected with its different offices, the committee think it right to recommend to the continued attention of the president and directors the necessity of withdrawing those branches which are found to be unprofitable, and transferring their funds to other offices which shall seem to require additional capital." Since this period two have been discontinued, and nine others have been established, as per triennial report of 1831. These opinions of Mr. Cheves, in which the committee have concurred, were approved by the stockholders, as will appear by the following extract from this same report in 1822. They say, "They take great pleasure in unanimously declaring that the circumstances of the bank fully realize their anticipations, as expressed at their last meeting, in regard to the president, (Mr. Cheves,) who, by his talents, disinterestedness, and assiduity, has placed its affairs in an attitude so safe and prosperous as that the burdens of duty devolving upon his successor will be comparatively light."

The committee cannot but think that, had the succeeding direction of the bank been guided more by the opinions and wishes of the stockholders, as then expressed, and gone on gradually growing with the growth, and increasing with the natural wants of the country, great sufferings to the community would have been avoided.

In the year 1819, great abuses existed in the branches, of which Mr. Cheves speaks without reserve, in his last report to the stockholders, as well as his correspondence with Mr. Crawford; and, upon casting the eye over the monthly statements, it is remarkable to observe what losses have taken place at the branches, compared with the mother bank. For instance, on the 1st of January,

the loss of the mother bank, on a capital of sixteen millions and a half, was, in round numbers, 328,000 dollars; that of the Baltimore branch was 1,662,000 dollars in a capital of one million and a half, so that it lost more than its capital. That of the Norfolk branch was 229,000 dollars on a capital of 500,000 dollars, losing nearly one half of its capital; and so with all the rest of the branches, their losses are out of all proportion to their capital, and ten times greater than the mother bank, according to the amount of their respective capitals. These losses, however, were principally incurred prior to 1819. The proper inference to be drawn from these facts is, that the worst of management has existed in the branches.

The "contingent fund" has claimed the attention of the committee. The object for which it was originally created, and the original amount provided, together with the additional appropriations which have been made to it, and the manner in which the same have been applied at different periods, will be explained in the following documents:

The report of the board of directors, in July, 1821, published in the gazettes at that time, marked No. 28; the report of the stockholders at the triennial meeting in October, 1822; the report of the dividend committee, on the 16th January, 1823, marked No. 29; a statement of the particulars of the debts "considered lost," marked No. 30; a statement of the suspended debt and real estate, with the probable loss thereon, marked No. 31; the statement headed "contingent fund," marked No. 32; the sales of the forfeited bank stock, marked No. 33; and the dividend reports for July, 1829, January and July, 1830, January and July, 1831, marked No. 34. To these the committee refer for the particulars of the subjects to which they relate, in connexion with the "contingent fund."

The committee feel it their duty now to give their views as to the causes of the present distress in the trading community, and which they fear may greatly increase. It is an acknowledged principle that like causes, in all cases, produce like effects; and as in 1819 contraction followed the expansion of 1817 and 1818, so, by the same rule, must contraction follow the immense expansion of 1830 and 1831, and like effects and consequences succeed. To illustrate more clearly the position, and bring it home to the mind of every one, the following table of the state of the bank during some of the months of 1818 and '19, 1831 and '32, are here exhibited, embracing items from which direct calls upon the vaults proceed, and the immediate means which remain to meet them, viz. The first are the deposits, circulation and debts abroad, not on permanent loan. The second, the specie, funded debt, and notes of other banks. The amount of each will be found under their proper heads at the various periods mentioned.

	Funded debt.	Specie.	Notes of other banks.	Issues.	Circulation.	Deposites.	Due in Europe.
1818.							
September,	9,430,926 60	2,780,728 15	2,838,632 19	19,622,881 39	8,214,885 10	12,484,420 16	1,908,706 37
October,	7,425,549 12	2,818,208 96	2,541,072 90	19,854,881 39	8,713,951 05	12,986,543 83	173,072 80
November,	7,202,040 12	2,126,032 03	1,074,027 01	10,023,024 15	8,242,431 00	8,233,724 25	506,433 00

The preceding table shows that at no period in 1819, when the bank was very near suspending payment, was it less able to extend relief to a suffering community than at the present moment. In April of that year, the month in which its difficulties were the greatest, its means of specie, notes of other banks, and funded debt, (which could have been turned into specie, or notes of other banks,) amounted to upwards of ten millions of dollars; and the whole demands which could come against it in the same month, of circulation, deposits, and debts owing abroad, amounted only to about fourteen millions. But the committee feel bound, in candor, to state, that this was after a number of months of constant contraction, not only by the Bank of the United States, but also by most of the other banking institutions of the country, where a general exhaustion had been produced. It was on the 6th April, 1819, that Mr. Crawford, then Secretary of the Treasury, writes to Mr. Cheves thus: "It is even doubtful whether it is practicable, with all the exertions which it is in your power to make, to continue specie payments through the year." Under the same date, he says: "My impression is that the safety of the bank can only be effected by withdrawing nearly the whole of its paper in circulation. If the bank does this, all other solvent banks will be compelled to do the same. When this is effected, gold and silver will be introduced into the country, and make a substantial part of the circulation, and enable the banking institutions gradually to resume their accustomed operations. Whilst this is effecting, the community, in all its relations, will be greatly distressed. Considering the extent of the suffering, it is greatly to be desired that some good may result from it."

The committee believe that the course of operations by the bank, during the years 1830 and 1831, have been nearly of a similar character to those of the years 1817 and 1818. Drafts and notes, payable at distant offices, were then freely discounted at the Bank of the United States, and the different offices. Bank notes were issued by the bank, without regard to the wants of the community, or the effect upon the circulating medium, which became depreciated, driving the precious metals from the country, and, until the reaction had operated to check them, led to extravagant speculations, which ended in ruin; and relief was not obtained until the circulation of the Bank of the United States had been reduced to about 4,000,000 dollars. Before this was accomplished, the expedient was resorted to of curtailing loans; and, while they were doing that, they continued the issue of bank notes, thereby continuing the evil which they were striving to avert.

What is the state of the bank now?

On the 1st of March, (see monthly statement, marked No. 35,) the bank had 6,800,000 dollars specie, 2,840,000 dollars notes of other banks, and of the funded debt, none!! making an aggregate of 9,640,000, to meet its circulation of 23,717,000 dollars, deposits 17,050,000 dollars, and foreign debts owing 1,876,000 dollars, making an aggregate of 42,643,000 dollars; and this evil exists while a reaction or contraction is operating to a considerable extent.

This contraction commenced on the 7th of October last, and is evidenced by the following circular, which indicates, beyond all doubt, that the bank had overtraded:

bank, and upon the office at New York; the more so, from our uncertainty as to the time when the necessary provision must be made, and from the prevailing active demand for money. Be pleased, therefore, so to shape your business immediately, as that, without denying reasonable accommodation to your own customers, or sacrificing the interests of your office, you may throw, as early as possible, a large amount of available means into our hands in Philadelphia and New York; and, at the same time, abstain, as far as practicable, from drawing upon either of those points; checks and short drafts on the local banks, and on individuals, will prove particularly acceptable for several months to come; and whenever direct claims of that kind, on those two places, are not to be procured, you might materially aid us, by taking drafts upon the large cities nearest to them.

I am, respectfully, your obedient servant,
W. McILVAINE, *Cashier*.

Addressed to the CASHIERS of all the offices.

Since the 1st of September last, the bank has diminished its means to meet the demands which may come upon it—

First, The whole of the funded debt which it then held, - - - -	\$8,497,681 06
Second, The difference between the specie it then held, - - - -	11,545,116 51
And the amount it possessed on the 1st April, - - - -	6,799,753 63
	<u>\$4,745,362 88</u>

Making an aggregate diminution of its means to meet its momentary demands, since the 1st of September, of \$8,243,043 94, whilst, during the same period, those demands have increased \$4,197,871 51, viz. the circulation, deposits, and foreign debt, the aggregate of which was, on the 1st of September, \$38,452,758 67, and on the 1st April, \$42,650,680 18. The measures and the effect appear to be similar to those preceding 1819. The extensive discounting of domestic bills and drafts, payable at distant branches, the amount being, on the 1st of April, per monthly statement, \$20,354,748 79. The orders for curtailing at all the Western branches, and the curtailing at the principal offices in the Atlantic cities, and at the Bank of the United States; the amount of which, at the Bank of the United States, between the 5th day of January and the 29th of March, is \$1,810,408 37; at the office of New York, between the 4th day of January and the 28th day of March, is \$259,305 43; at the office of Boston, between the 5th day of January and the 29th day of March, is \$167,860 85; (and that, too, on a discount line of less than two and a half millions;) at the office of Baltimore, between the 16th of January, and the 2d day of April, \$128,741 63, and on a discount line of little more than two millions of dollars, as will be seen by the weekly statement of those offices and the Bank of the United States, marked No. 36.

The most remarkable feature which presents itself to the view of the committee, connected with the present situation of the bank, and the course of operation upon it, since the 1st of September last, is the increase in the

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increase to the extent of the increase of circulation, and but for a decline in the price of specie in Europe, it would still continue to be exported.

The committee would present another striking analogy between the situation of the bank in April, 1819, and its present condition. At the first mentioned period, Mr. Cheves informed the Secretary of the Treasury that the bank could not pay the Louisiana debt of three millions, without negotiating a loan in Europe, and two millions were actually borrowed in Europe, the indulgence of the Government being obtained to that effect. The bank at this time is precisely in the same situation; it has asked the Government to postpone the redemption of the three per cents. from 1st of July to 1st of October, and has assumed the payment of one quarter's interest on these stocks, being substantially equivalent to borrowing seven millions of the Government's money for three months.

The supplying of exchange by the bank, as has been done for the last five months, and the curtailing of discounts, are but mere palliatives, as the committee fully believe; and they are persuaded that no measure can be invented to restore a sound currency, and a regular state of things generally, and give a solid and permanent value to property, but the withdrawal of a large portion of notes now in circulation, by the bank, which will compel other banks to do the same.

The committee will here introduce a quotation from Mr. Rush, in his treasury report in 1828, which fully accords with their sentiments. "It is the preservation of a good currency which can alone impart stability to property, and to prevent those fluctuations in its value, hurtful alike to individual and national wealth." Again, he says: "This advantage the bank has secured to the community, by confining within prudent limits its issues of paper, whereby a restraint has been imposed upon excessive importations, which are thus kept more within the true wants and capacities of the country." According to the triennial report of the directors to the stockholders on the 1st of August, 1828, the amount of circulation then was \$13,045,760 71; and on the 1st of April last, as before stated, it was \$23,717,441 14, presenting the astonishing difference of \$10,071,680 43, in less than four years. Can this be considered according to the sound doctrine of Mr. Rush, confining its issues of paper within prudent limits, whereby a restraint has been imposed upon excessive importations? That great contractions are injurious, the committee consider that they have adduced an authority that cannot well be doubted; and that a great one is now in operation, there are too many general evidences in confirmation of the fact, to be refuted. A particular one will suffice, which is taken from the documents called for by the Senate, and presented to that body by the Secretary of the Treasury on the 12th of March last; in which will be found a communication from the president of the bank, stating the amount of branch notes redeemed by the Bank of the United States at Philadelphia, during the month of February last, only, to be 726,000 dollars; and the amount redeemed in 1831, during the same month, was only \$68,910 dollars.

In a letter under date of the 26th of March last, to the chairman of the committee, the president of the bank says, "that the amount of branch notes redeemed at the

to - - - - -	\$21,756,668 10
And the last to - - - - -	9,640,000 00

\$12,116,668 10

Making, as just stated, a diminution in the active means immediately applicable to the extinguishment of its debts, of considerably more than half its former capacity, to effect the same object.

With such an increase of issues, and the influence of a most powerful reaction now operating upon the fiscal energies of the country, as is exhibited by the difference of the redemption of branch notes at the periods and places above mentioned, together with such a reduction of its means, to meet its engagements, must, we fear, compel them still further to curtail their accommodations.

It is evident, from the circulars addressed to the branches, and correspondence with them since October last, that the chief object of the bank has been to sustain itself—the statements accompanying this report, clearly proving that the bank has not increased its facilities to the trading community, in any part of the Union.

The Bank of the United States, among other conditions of its charter, is bound to make collections of the public revenue, to transfer the same, or any part thereof, from one point to another, that may be required; and to make any and all payments for the account of the Government, whether for principal, interest, civil list, army, navy, pensions, or for any other purpose whatever, free of all and any charges for such services.

For performing this duty, the bank has claimed, and has received from the Treasury Department, and the country generally, for some years past, merit to an extent that could not have been surpassed, even if all those services it performs were gratuitous. This and other circumstances have led the committee to an investigation of the subject, as far as the limited time would allow, before closing their labors, to see how far the bank is entitled to the credit bestowed upon it, and to what extent the bank has aided the Government in its fiscal operations beyond the obligation imposed in obedience to its charter.

The Government in its collections through the Bank of the United States, receives nothing but specie, or notes of the Bank of the United States, and makes its payments in nothing else. If the notes of State banks are received by the bank in place of their own, it is a private matter between such banks and the Bank of the United States, and one with which the Government does not concern itself; and it is to be presumed that the Bank of the United States is too watchful and vigilant in the protection of its own interests, not to see that it obtains from the State banks, for notes thus taken, specie, or its equivalent, or its own notes, in exchange, and thereby be provided with a fund from the collection of the revenue, equal, in value, to that in which they are required to pay.

The largest portion of the revenue, particularly from imports, as is universally known, is collected in the Atlantic cities north of the Potomac. Those cities being the great marts of supply to nearly the whole of the United States, and places to which remittances centre from almost every part of the country, creates a demand for funds upon them, from nearly every quarter, constantly and generally at a premium. Therefore, so far as the bank is

done, will be seen by a communication from the president of the bank to this committee, hereafter adverted to in another part of this report; and also in a report of the committee of the stockholders, at the triennial meeting on the 1st of September, 1831, in the following words: "That the bank, through the whole course of its operations, has effectually assisted the treasury in the collection and distribution of the public revenue, and that, of late years, it has been signally efficient in preventing the discharge of the public debt from disturbing the operations of commerce, or the value of pecuniary investments."

Now the committee are not able to discover upon what principles the foregoing declaration is made. By referring to the correspondence in 1819, between the then president of the bank and the then Secretary of the Treasury, the committee discover that the bank was then applying to the Treasury Department to aid it in its operations, and was receiving all that it could promise.

On the 20th March, 1819, the president of the bank closes a communication to the then Secretary, Mr. Crawford, thus: I have ventured to trouble you with those views, with the hope that you will pardon the liberty, and with the conviction that if you can serve this institution in any of them which you shall deem consistent with the public good, you will feel a pleasure in doing so." The Secretary of the Treasury, in closing his answer, under date of the 27th March, 1819, says, "every facility which it is in the power of this department to afford the bank, in its efforts to support specie payments, and restore the currency to a natural state, may be confidently relied upon."

By a reference to a statement of the public deposits in the Bank of the United States each month from March, 1818, to March, 1832, inclusive, marked No. 37, it will be seen that, from the 1st of January, 1823, up to the month of March, 1832, there has been only one period, (November, 1825,) when the public deposits did not exceed four millions of dollars, in the hands of the bank, and they frequently amounted to eight, nine, ten, and eleven, and on one occasion to twelve millions of dollars.

By reference to document marked No. 38, it will be found that since the month of March, 1824, at all the different periods immediately following the redemption by the Government of portions of its funded debt, there is no one time when the bank was not left with more than one million and a half of dollars of public deposits, and in many instances with four and five millions, which sums were, immediately after, increasing by the constant accumulated collection of the public revenue.

The bank, as it collects the revenue, knows, or ought to know, that it will be called upon by the Government to reimburse it; and in all cases of redemption of the funded debt, three months' notice is given by the treasury of such intention. With such notice, and with proper management on the part of the bank, the committee cannot see that either the Government requires any aid, or that the community can be affected by the course of the operation.

The bank has its legitimate banking capital with which to do its regular business, and accommodate the community. As it collects the public revenue, it is enabled both to avail itself of the advantage of employing it to its own benefit, and the accommodation of the commercial community who principally contribute to its payment, by

mittee too plain and simple to require any further illustration; and if the principle is sound, and has been acted upon by the bank, they cannot discover in what manner the operations of commerce could have been disturbed, or the value of pecuniary investments have been affected by the payment of the public debt by the Government.

But if the bank has, as the public revenue has accumulated to the credit of the Treasury Department, gone on discounting upon it, or loaning it out, disregarding the period when they would be called upon to reimburse it, the committee can readily perceive that, when that order arrived, they would be found not only deficient in preparation, but in a state of surprise, and that the payments would first embarrass the bank, and then lead it to press and embarrass the commercial community.

From the observations made, and the examination of documents during the course of this investigation, the committee have strong reason to apprehend that the course pursued by the bank has been upon this latter principle. If so, the bank has incurred a high responsibility.

The committee believing the subject of the late postponement of a portion of the three per cent. stocks, intended, as they understood, to have been paid on the 1st of July by the Government, to be within the province of their inquiries; and believing, also, that it had a strong connexion with the present state and situation of the affairs of the bank, and for the purpose of enabling them to form a correct and true opinion upon that subject, they made a call upon the president of the bank for the correspondence in relation to the postponement of that payment, in the following words: "Will you please give a copy of the correspondence connected with your application, in March last, requesting a suspension by the Government of the payment of a portion of its debt intended to have been made on the 1st July next, or a statement of the arrangement made in relation to that subject." Which correspondence was communicated by the president of the bank, with the following remarks: "I have made no application to the Government, nor have I requested any suspension of the payment of any portion of the public debt."

"The inquiry, I suppose, relates to this circumstance; 'I received a letter from the acting Secretary of the Treasury, dated the 24th March, 1832, informing me that Government was about to issue a notice on the 1st of April, of their intention to pay, on the 1st of July next, one half of the three per cent. stock, and to do it by paying to each stockholder one-half of the amount of his certificate.' He added,

"If any objection occurs to you either as to the amount or mode of payment, I will thank you to suggest it."

"Thus invited by the Government, in a communication marked 'confidential,' to give my opinion on a measure contemplated by the Government, I felt it my duty to express my views of its probable operation: in my reply, therefore, dated 29th March, I stated 'that so far as the bank is concerned, no objection occurs to me, it being sufficient that the Government has the necessary amount of funds in the bank to make the contemplated payments.' I then proceeded to observe, that in the present situation of the commercial community, and with a very large amount of revenue, (amounting to nine millions,) to be paid before the 1st of July, the debtors of the Government

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"Having thus performed my duty in giving the opinion asked, I left it, of course, to the Government to decide. On the part of the bank, I sought nothing, I requested nothing. After weighing the circumstances, the Government were desirous of adopting the measure, but the difficulty I understood to be this, that the sinking fund would lose the quarter's interest, from July to October, of the sum intended to be paid in July; and that the Government did not feel itself justified in making the postponement, unless that interest could be saved, but that it would be made, provided the bank would make the sinking fund whole on the 1st October. To this I said, that, as the bank would have the use of the fund during the three months, it would consent to save the sinking fund harmless, by paying the three months' interest itself; and so the matter stands.

"Now, it will be seen that the bank, in all this, has had not the least agency, except to offer its opinion, when it was asked, in regard to a measure proposed by the Government; and then to offer its aid in carrying that measure into operation."

The committee cannot discover any ability which the bank possesses, or will possess, to give increased aid to public debtors in the payment of the nine millions of dollars falling due (as is said) in the quarter ending with the 1st of July; but, on the contrary, they believe that such is the situation of the bank now, and such will be the demands which it will be called upon to meet, that it will require the aid of all the accumulated collections for the Government, to sustain itself. The committee are fully of opinion that, though the bank neither "sought" for nor "requested" a postponement of the payment by the Government, as stated in the declaration of the president, yet if such postponement had not been made, the bank would not, on the 1st of July, have possessed the ability to have met the demand, without causing a scene of great distress in the commercial community.

The committee are unable to discover in what manner the bank could afford aid to the Government, in carrying into effect the measure they proposed, which the president of the bank, in his remarks, speaks of having proffered to them. All that the Government could ask of the bank on the 1st of July, or at any other time, would be, to pay over to them the amount it had collected for their account, when they wished to employ it—the same as a principal would call upon his agent to pay to him moneys which he had collected for his benefit.

By document marked No. 39, it would appear that, on the 13th day of March last, the bank was aware of the intention of the Government to pay off, during the year, a great portion of the three per cent. stocks; and the subject of making an arrangement with the holders was, on that day, referred, by a resolution of the board, as follows:

"Resolved, That the subject of the communication just made by the president be referred to the committee of exchange, with authority to make, on behalf of the bank, whatever arrangements with the holders of the three per cent. stock of the United States, as may, in their opinion, best promote the convenience of the public, and the interests of this institution."

This proceeding on the part of the board, nearly two

amount of duties payable for the last few months, there has been a pressure upon the mercantile classes, who have been obliged to make very great efforts to comply with their engagements to the Government. That pressure still continues, and it may be prolonged by the same cause: the amount of duties still payable during the next three months. This state of things seems to recommend all the forbearance and indulgence to the debtors which can be safely conceded. The inconvenience, then, of the proposed measure is, that the repayment of six or seven millions of dollars, more than half of which is held in Europe, may create a demand for the remittance of these funds, which would operate injuriously on the community, and, by abridging the facilities which the debtors of the Government are in the habit of receiving from the bank, may endanger the punctual payment of the revenue, as the bank would necessarily be obliged to commence early its preparations for the reimbursement of so large an amount of public debt.

"My impression, therefore, is, that, with a view to the safe and punctual payment of the public revenue, the Government would be benefited by postponing the proposed payment of the public debt to another quarter, by which time the country will sustain less inconvenience from demands on foreign account."

The committee are obliged to dissent from the views expressed by the president in the foregoing extract. The committee cannot believe that the pressure which has, and which continues to exist since October last, is attributable mainly "to the great amount of duties payable for the last few months." The committee believe the operations of the Bank of the United States in Philadelphia, and the offices in Baltimore, New York and Boston, (the four principal places where bonds are payable,) during the last quarter, furnish evidence to the contrary. By a reference to the weekly statements of the Bank of the United States, the offices at Baltimore, New York, and Boston, from July, 1831, to April, 1832, marked No. 36, it will be seen that the amount of reductions on discounts and loans at those four largest commercial cities, during the last quarter, taking the maximum amount in January last, and ending on the 1st of April, is \$2,498,489 76, or, in round numbers, two millions and a half of dollars; this reduction by the bank and its branches has probably compelled a similar reduction on the part of the State institutions, in proportion to the amount of their loans in each of those places. In this, and in this alone, the committee are fully persuaded is to be found the true secret of the pressure which has existed, and does still exist, operating upon the commercial community.

That this pressure will continue for some time to come, the committee fear; for the expansion has been so great, that the contraction which is now in operation cannot, in the opinion of the committee, be effectually checked or controlled, without a necessary curtailment of discounts.

If the bank possessed the ability to sustain itself, without curtailing its discounts, the revenue falling due the present quarter might be collected, and facilities granted during the time, upon the principle before pointed out, to the commercial community, and disbursed again by the Government, without any inconvenience being caused by

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tions, which will, of course, greatly distress the community, the committee are under the strongest conviction that it will be little better able to meet the pressure the Government payments will cause, on the 1st of October, than they would have been on the 1st of July. The words of Mr. Crawford, in a letter dated 6th April, 1819, to the president of the bank, the committee consider peculiarly appropriate here to introduce. "Palliations may prolong the existing embarrassments, and, by exciting the hopes and fears of the community, aggravate the existing evils, but cannot influence the final result."

In another letter, dated the 9th of April, 1819, to the same gentleman, he says: "Banks, in order to secure specie payments, must approximate their circulation and individual deposits, to a sum justly proportioned to the amount of specie in their vaults. Any thing short of this will keep them in a precarious state, and postpone the period when banking operations can be safely prosecuted upon ordinary principles."

When an institution, with investments amounting to seventy-five millions, commanding the foreign and domestic exchange of the country, monopolizing the Government deposits, cannot, at the moment, when we are exporting our annual crop of cotton, amounting, by the admission of the president of the bank, to twenty millions of dollars, (but really near thirty,) transfer a few millions of its funds abroad, to pay the Government debt without embarrassing its operations, and seriously distressing traders, is there not reason to believe that its business has been too much and too rapidly extended?

In the late letter of the president of the bank to the Secretary of the Treasury, of the 29th March last, there is the following postscript: "As an illustration of the effect of the measures I have suggested, I may mention, that in the month of February last, the collector of New York, with a laudable anxiety to protect the public revenue, applied to the bank to authorize an extension of loans in that city, in order to assist the debtors to the Government. This was promptly done; this I should desire to do again, as the payment to the Government during the next quarter will probably be very large."

Upon a reference to the weekly statement of the office at New York, from July, 1831, to April, 1832, before alluded to, the committee find no aggregate increase of loans; but, on the contrary, they find that there has been a reduction in the amount, viz. the amount on the 29th February being less than on the 2d and the 8th days of the same month, and \$140,000 less on the 28th day of March than on the 29th of February previous.

By examining the statement No. 36, it will be seen that the total amount of discounts at the New York branch, between the 4th of October, 1831, and the 28th March, 1832, was actually diminished \$468,447 17, while during the same time the bonds paid at that port amounted to between nine and ten millions of dollars.

The committee, in order to ascertain the precise manner in which the annual election of directors has been conducted, called, at an early period of the investigation, for the following document, viz. "A statement of the number of votes given at each annual election of directors since that of 1823, the whole number of votes given, the number given in person, and the number given by proxy,

this accumulation of proxies in the hands of one person is most obviously calculated to produce. The charter has limited the votes of the largest stockholder, no matter what may be the number of shares, to the number of thirty, clearly with a view to prevent the whole affairs of the bank from falling into the hands of a few individuals. It is too powerful an engine to be controlled by one man alone, and this must be apparent to the good sense of every one; yet, notwithstanding this restriction, by the use of proxies, individuals, with little or no immediate interest, can perform what those possessing a direct and deep interest are prohibited from doing. Connected with this subject, there is one which ought not to go unnoticed. The charter positively requires twenty-five directors; for some years past, as appears by the list of directors, marked No. 42, there have been but twenty-four—the president of the bank holding the appointment from the Government and stockholders at the same time.

The majority of the committee cannot pass over mentioning the subject of the sums paid for printing. By reference to a statement furnished the Senate in March last, it will be seen that, from the period of the establishment of the bank, after the year 1817, up to the year 1829, the sum paid for printing, in any one year, has not exceeded \$867 19; and in some years it has been reduced as low as \$124 and \$165 50. But, in 1830, the amount is swelled to the sum of \$6,762 54; and, in 1831, to \$9,187 94. In the year 1817, the year in which the bank was established and went into operation, and consequently a greater expense was incurred, the expense for printing was \$3,226 15.

What circumstances occurred or existed during the years 1830 and '31, to require such an unusual increase in this branch of expense over the preceding years, in the ordinary course of its business, the committee have been unable to discover, though they called for the accounts under this head of expenditure, but have not yet received them. In the same document is contained the sums paid to "attorneys," annually, since the establishment of the bank. This subject, owing to their limited time, the committee were unable to investigate. Sufficient, however, came to their knowledge, to justify the belief that the sums returned as having been paid to "attorneys," embrace only what was paid to them in that distinct character; that the sums paid to solicitors and counsellors for the bank are not in the amount given.

The committee addressed the following inquiry to the president of the bank, believing that it involved a fact which will be useful to Congress in its future legislation on the subject of its charter:

"Did Mr. Ellsworth, or any one else of the State of Connecticut, as assessor of taxes of that State, write to you to give him a list of stockholders belonging to that State, for the purpose of taxing them according to a law thereof?"

The president replied: "In December, 1829, Henry L. Ellsworth, of Hartford in Connecticut, addressed a letter to me, requesting to be furnished with a list of the stockholders of the bank residing in Connecticut, for the purpose of taxing the stock. The request was declined, for reasons which will appear in the correspondence hereto annexed:" to which the committee refer, marked No. 43.

The committee, in calling for various statements, have collected a number of useful documents, not referrible to

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The committee that investigated the affairs of the bank in 1819, when it had been but two years in operation, with its business much less extended than at present, were engaged, as it would seem from the records of that day, from the 30th of November to the 16th of January, before they reported; and then they had not made as thorough an examination as the transactions of the institution seemed to require. At the present time, with a greatly enlarged business of sixteen years' accumulation, and twenty-five branches, whose operations have been charged with signal instances of irregularity, the bank requires a much more minute examination than the committee have been able to give it.

There have been many statements called for, which the business of the bank, and the shortness of the time allowed for the investigation, would not admit to be furnished. The committee were particularly desirous of ascertaining how far the payment of the public debt, and throughout the whole term of the existence of the bank, affected its operations, and called for all the resolutions and correspondence relating to that subject since 1817, but have only received such as related to the three per cent. loan, and the circular of the 7th of October last.

On the subject of specie payments, domestic and foreign exchange, investments in public debt, by the bank, in 1824 and 1825, and its ability to make loans to the Government—the influence of the operations of the bank upon trade—on the increase of the paper circulation of the bank—its agency in diminishing or enlarging the circulation of local banks, and the means of permanently regulating our general circulation, so as to prevent its injurious effects upon the trade and currency of the country; all matters of vital importance in the re-organization of the bank; concerning which, the committee submitted a number of inquiries to the president of the bank, who has not been able, from the press of other indispensable duties, to answer; and which queries are appended to this report. The investigations, however, which have been made, imperfect as they were, fully justify the committee in saying that the bank ought not at present to be rechartered.

It is obvious, from the statements submitted, and the correspondence with the Treasury concerning the public debt, and the fluctuations of the revenues of Government, that these have hitherto essentially affected the general circulation and operations of the Bank of the United States. It would, therefore, seem to your committee to be most judicious not to act upon the question of rechartering that institution, or of chartering any other national bank, until the public debt shall have been paid off, and the public revenue shall have been adjusted to the measure of our federal expenditures.

REPORT OF THE MINORITY.

Mr. McDUFFIE, from the select committee appointed to examine the books and proceedings of the Bank of the United States, submitted the following as the views of the minority of the said committee:

The minority of the committee, appointed to examine the books and proceedings of the Bank of the United States, dissenting from the report of the majority, be-

clined issuing any of its own notes, in obedience to orders of the mother bank—an individual applied for a loan of these depreciated bank notes, alleging that he wanted them to pay a debt, and that they would answer his purposes as well as any other bills. The loan was granted. The bank of Kentucky was, at the time, regularly paying to the branch interest on these notes, and finally redeemed all that remained a few months after the loan in question. It thus appears that these bills were as good as cash to the bank, and the borrower alleged that they were of equal value to him. It is difficult to conceive any solid ground for considering this a case of usury. It would be as reasonable to say that it would have been usury for the bank of Kentucky itself to make a loan of its own depreciated notes. The utmost fairness was exhibited by the branch bank in this transaction; the loan was made with reluctance, after repeated applications, and yet the directors of the mother bank, many years afterwards, and since Mr. Biddle has been at the head of the institution, refunded to the borrower of the Kentucky notes the full amount of the difference between their nominal and their real value, at the time of the loan, with interest. This has been also done in another similar case; so that, in the only two cases which have been brought to the view of the directors at Philadelphia, for the purpose of having the amount of the depreciation refunded, the application has been granted, with a promptness and liberality highly creditable to the institution.

The minority of the committee will barely remark upon these transactions, that, being free from all imputation of intentional usury, and never having been sanctioned by the directors of the mother bank, but, on the contrary, corrected, they cannot furnish the slightest ground for alleging that the charter has been violated.

The second ground of imputation noticed by the majority of the committee, is, "the issuing of branch orders as circulation."

On this point, the minority deem it sufficient to remark, that a branch order is nothing more nor less than a draft or bill of exchange, drawn by a branch upon the mother bank; and that the charter expressly authorizes, as one of the primary operations of the bank, the buying and selling of bills of exchange. If the bank has a right to issue these drafts at all, it cannot, surely, be made a ground of just complaint against it, that they are used as circulation. That is exclusively the affair of the community. The bank cannot be justly made responsible for the use which the public may choose to make of these drafts. It is the high credit of the bank that gives the character of circulation to this paper; and it is the voluntary act of the community receiving it as such.

In fact, there is no part of the bank circulation which has been so beneficial to the public. It has, in practice, furnished the Southern and Western States with the means of effecting their exchanges with the North, without any expense whatever.

It may be well doubted, however, whether an extensive and permanent issue of these drafts might not prove very inconvenient to the bank itself, in a certain state of the domestic exchanges, and it would be, therefore, a judicious measure to supersede the necessity in which these

the violation of its charter, too, that it has been guilty of dealing in current coins, and particularly American coins, the very end for which it was created.

As relates to dealing in current coins, the right to do so is involved in the right of lending money and of receiving it back. The authority to deal in bullion is expressly granted in the charter, because bullion is not current coin, and, of course, the right to deal in it is not necessarily involved in the right of carrying on banking operations.

The fourth ground of imputation is, "the sale of stock, obtained from Government, under special acts of Congress."

This charge is, if possible, more extraordinary than the last. If the acts of Congress, which expressly authorized the bank to subscribe for Government stock, had any meaning at all, they certainly meant to authorize the bank to acquire the right of property in the stock for which it was authorized to subscribe. The right to sell this stock at pleasure, is of the very essence of the right of property, and is as clearly conveyed to the corporation by the act authorizing a subscription, as the right to receive the interest.

The right to sell, therefore, is indisputable.

But the majority of the committee seem to suppose that the policy which forbids the bank to speculate in stocks, with its immense resources, by which the price might be "raised and depressed at pleasure," equally forbade the bank to sell the stock for which it had subscribed by the express authority of the Government. Now, it is apparent that the evil of dealing in stocks, by such an institution, can only exist in cases of buying and selling stocks at the pleasure of the bank. To raise and depress prices, the bank must have the right both to buy and to sell, alternately, as may suit its purposes of speculation. But it has never pretended to claim, much less to exercise, the right of buying Government stocks, except under the express authority of Congress, and by an express stipulation with the Treasury Department. And after it has obtained a large amount of Government stocks, in this mode, it is difficult to conceive how it could raise the price of these stocks by coming into the market as a seller, or how it could promote the purposes of a stock jobbing speculation by depressing the price, the only effect which could result from offering them for sale. When these stocks were sold in 1825, there was an extraordinary pressure upon the money market of the whole commercial world. They constituted the very resource which the bank most required in such an emergency; and it is now matter of history, that it was partly by the wise, judicious, and timely use of this resource, that the bank of the United States averted from this country the calamity of a general failure of the banks, and a widely extended scene of commercial bankruptcy.

The majority of the committee seem to regard it as a matter of complaint, that the Government permitted the bank to subscribe for these stocks, in preference to individuals. If this is, indeed, a just cause of complaint, it should be made against the Government, and not against the bank. When Congress expressly authorized the Secretary of the Treasury to obtain a loan from the bank, and the Secretary stipulates the terms of that loan, it is

question is whether they have or have not made a proper application of the funds of the corporation, with a view to the promotion of its interests. To what extent the value of the real estate of the bank has been increased by the internal improvements in question, has not been ascertained; but it may be well supposed that it exceeds the sum appropriated by the directors to aid in the construction of these improvements.

The other "donations" to which the report refers, consist of small sums contributed to fire insurance companies, for the safety of the bank property, and against which it is not pretended that any objection can be fairly raised.

The last ground of imputation, as touching the violation of the charter, is, "building houses to rent or sell, and erecting other structures in aid of that object."

The bank is expressly authorized to purchase real estate, which has been mortgaged to secure debts previously contracted, and also such as may be sold under judgments and executions in its own favor. In the exercise of this right, the debtors of the bank are as much interested as the bank itself. For it must be apparent that, if the bank were not permitted to bid at these sales, the property of its debtors would be frequently sacrificed at a sum greatly below its value. It has been only for the purpose of saving itself from loss, and the property of its debtors from being thus sacrificed, that the bank has ever purchased any real estate, except what has been necessary for its banking houses. There is no description of property which a banking institution is so unwilling to own as real estate. Such an institution is entirely unsuited to the management of such property; as much so as a farmer would be to manage the discounts of a bank.

Owing to the extensive failures of the persons indebted to the bank in the western country, prior to 1819, the directors were unavoidably compelled to take a very large quantity of real estate, as the only means of avoiding still greater losses than they have actually sustained. They have disposed of this estate as rapidly as they could, consistently with the interests of the institution. On a portion of it they have erected improvements, to prepare it for sale, and by means of which they will save the stockholders from a great portion of the loss which would have otherwise occurred, and will recover a large amount of the debts which were some years ago set down as desperate. If, for this course of conduct, the directors are rendered obnoxious to censure, then will they be condemned for the very faithfulness of their stewardship. It is too obvious, to require, or to justify, the use of argument, that the right of the bank to improve its real estate is inseparably connected with the right to purchase, to hold, or to own it. On this subject the House is referred to the exposition of the president, marked A. The next subject to which the report of the majority adverts, is the loan to James Watson Webb & Co. It is proper to remark, in the first place, that the only sums ever loaned to this co-partnership were the sums of twenty, and of fifteen thousand dollars, the former in August, and the latter in December, 1831. It is also proper to remark that the first sum was reduced to \$18,000 at the maturity of the note given for it; and that the latter sum was entirely paid off in March last, by Mr. Webb; and, as he expressly states

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their bookkeepers, it appeared that the nett annual income of the paper, from advertisements and subscriptions, was 25,750 dollars, after deducting ten per cent. for bad debts, and defraying all the expenses of their establishment. Upon the whole, it appeared that this was one of the most profitable, as it is certainly the largest commercial newspaper in the Union, with an immense advertising patronage, and a large and rapidly increasing subscription list.

With these exhibits, Mr. Webb produced the letter of Mr. Walter Bowne, mayor of the city of New York, and formerly a director of the Bank of the United States, a man of wealth and high character, enclosing the application for the loan, and stating that "he did so with pleasure, and saw no reason against this being treated as a fair business transaction." Several of the directors, as well as the president of the bank, were examined on oath, in relation to this transaction, and as the clearest mode of exhibiting its true character to the House, extracts from these examinations will be given.

The following is the testimony of Mr. Biddle relative to these loans:

Question.—"Did you consider the loans made to James Watson Webb & Co. fair business transactions, such as you could not refuse without subjecting the bank to the imputation of indulging political partiality? State fully the views and considerations on which you voted in favor of those loans."

Answer.—"I certainly considered them as fair business transactions, or I should not have consented to them. At the request of the committee I will explain the reasons of that opinion."

"If, in making loans, every transaction was perfectly safe, and every borrower perfectly good, banking would be an easy office; but as men generally borrow to employ the funds in some profitable pursuit, subject, of course, to vicissitudes, all that can be expected, in making loans, is a fair and reasonable caution as to the situation and prospects of the borrower. Tried by these, the only tests, I think the loans in question are unexceptionable. The first was done by a board of directors, consisting, besides the presiding officer, of six gentlemen, Mr. Lippincott, Mr. Fisher, Mr. Bohnen, Mr. Neff, Mr. Platt, and Mr. Willing, merchants, and men of business, with no partialities towards the applicants, with whom none of them had the least acquaintance. The grounds of their judgment may be thus stated. In making ordinary loans, the board judge by the general standing of parties, without any examination of their affairs. But, in this case, the parties began by an exposition of their whole situation. This was forwarded by Walter Bowne, Esq., the mayor of the city of New York, where the applicants resided, who, in addition to his being personally known and respected by all the members, had been one of the oldest directors of the Bank of the United States, and for many years sat at the board around which the directors were then assembled. In this letter he says, 'I cheerfully forward the papers,' and I see no reason against this application being treated as a fair business transaction." He does not expressly say it ought to be granted, because he transmits, at the same time, some of the materials on which the directors were to form their own judgments, to which others were added by Mr. Webb.

the application, was known to be a wealthy man. Both were considered men of talents and peculiar aptitude for the business in which they were engaged. Then, what was that business? It was the conducting of the largest newspaper in the country, requiring, of course, considerable means, and giving employment to a great mass of active industry. Its situation was represented to be this:

Mr. Webb declared that there were then 3,300	
daily subscribers, at \$10,	\$33,000
2,300 others, at an average of \$4 50,	10,350
275 yearly advertisers, at \$30,	8,250
310 days' advertising, at \$55 per day,	17,050
Making	\$68,650

Deducting from this 10 per cent. on the daily	
subscriptions and advertisements, (of which	
about one sixth is paid in advance,) say	
5,830, and 20 per cent. on the other sub-	
scribers, say 2,070,	7,900

There remains a gross income of	60,750
The annual expenses were stated at	35,000

Leaving a nett annual income	\$25,750
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This statement is confirmed by the affidavits of the bookkeepers and pressmen of the establishment.

The total value of the paper was thus stated: James Watson Webb had invested in it 33,000 dollars, for which 40,000 dollars had been offered, provided the other half could be had for 25,000 dollars. This he declined, but it is mentioned to prove that the whole might have been sold for \$65,000

Then it was an improving establishment.	
It had owed a debt to the banks of	15,000
which it had paid off in April and May, 1831,	
out of the collections of the last six months,	
which had amounted to	20,000
It had, in 1829, owed a total debt of	29,000
which it had since paid off.	

And, at the present moment, its outstanding	
claims were more than its debts by	10,000

For its responsibilities and means stood thus—	
Outstanding debts in the country more than	
\$25,000; of which could be collected, on	
presentation of bills,	10,000
Due in New York more than four months' sub-	
scription, which, with the unpaid arrears of	
the last six months, may be safely estimated at	20,000
And the property owned by the applicants,	
amounted to	8,000

Making	38,000
While the whole amount of debt was	28,000

Leaving an excess of	\$10,000
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That they had been deemed worthy of credit in New York, appeared from two facts:

1. That the banks of New York had lent them 15,000 dollars, which they had repaid.
2. That the respectable mercantile house of J. L. and J. Joseph & Co., a firm well known to the directors,

In conducting such a business, where the receipts are semi-annual, the payments daily and weekly, they naturally require, like other men in business, some credit. They accordingly apply to borrow \$20,000. They wish to borrow it, not to pay previous debts, not to spend it on objects unconnected with their business, but for the purpose of employing it all in a way to increase the profits of the concern itself, by procuring a new press, and enlarging their means of obtaining early commercial information, and thus make the paper more valuable.

Now the statements may be presumed to present the most favorable aspect of the case, from the sanguine temper in which men are prone to estimate their own professions and prospects, and yet, unless they were wholly fallacious, the board saw enough to warrant the loan. It was further justified by the event; for, when the note fell due, 2,000 dollars were paid at a time when the demand for money induced many other debtors to ask for a renewal of their notes.

"So much for the loan of 20,000 dollars."

"The other loan rested on the same principles as the first, with this addition. The parties stated that, owing to the part which they had taken in regard to the bank, they had been deprived of their usual accommodations in their business. Whatever might be the reason, the fact of an abridgment of these facilities furnished a reason for extending the loan in addition to the belief of its safety—which was, that by so doing, any hazard to the original loan might be prevented; and the best evidence of its security is, that the parties have since repaid the loan.

"In regard to the other loans, which appear in their names, they were given without any knowledge of their being discounted at the bank. They were done at the request of a person of undoubted solidity, which has been proved in the most decisive way—by the actual payment of the notes. That they intended to aid Mr. Noah, the drawer of the notes, in purchasing a share in a newspaper, was stated at the time. But that formed no objection to them. He borrowed money as thousands borrow money every day, to employ it in his active business. If Mr. Noah himself applied to the bank for a loan to buy a share in a newspaper, and the security was satisfactory, the purpose of the loan would have made no difference. Nine-tenths of the loans made of the bank, probably are made to persons to buy something, or to pay for something already bought. Men borrow money to buy a share in a ship—a share in a cargo—a share in a bank—a share in a canal—why not a share in a newspaper? The bank had no difficulty about a loan, because it was thought secure; nor about the object, because that was not the concern of the bank. It does not inquire, and does not care, where its money goes; its only anxiety is, that it should come safely back; and whether, in the interval, it is employed by a merchant, or a farmer, or a lawyer, or an editor, is a matter of which it takes no cognizance."

"In respect to loans generally to editors of newspapers, the bank proceeds on the principle of knowing no class of citizens, and proscribing none. Even with this rule, its situation in regard to such loans is a little peculiar. From the nature of their occupations, editors engaged in the discussion of matters of national concern, have generally expressed opinions in regard to the bank;

question, there was insensibly blended with the mere business considerations any political feeling, it was probably this: that charged, as the bank habitually is, with hostility to the present administration, it was due to the interest of the stockholders to correct so unfounded an impression, when a fair opportunity occurred of giving accommodation to those who were considered as the most strenuous and efficient supporters of that administration. The directors of the bank understood too little of the subject to attempt to adjust the balance of accommodation to political parties; nor have I myself ever had even curiosity sufficient to notice it, until the inquiry of the committee has suggested it. But, undoubtedly, as the committee cannot fail to perceive, by far the greatest amount of loans to editors is to the friends of the present administration, and a large portion of that to the decided opponents of the bank."

All the directors who were examined, testified that they granted these loans under the full belief that they were safe loans, and Mr. Cope, a gentleman of intelligence and high character, gave the following explanation of the views and motives by which he was governed in voting for the second loan of fifteen thousand dollars.

"Documents," said he, "were exhibited to the committee, containing a statement of the means of the parties to the note, by which they appeared to be worth about thirty thousand dollars, with a prosperous business, and a large subscription list. The loan was made, as all other loans are made, without any regard to the politics or business of the parties, but solely because it was the business of the bank to lend on adequate security."

"I was well aware, at the time, that they were partisan printers, and I knew that, if we made the loan, it might be ascribed to improper motives, and that, if we rejected it, it might be said we persecuted the individuals on account of their politics."

Such are the grounds upon which the directors granted these loans to James Watson Webb & Co.

It will be readily perceived that the directors of the bank were placed in very peculiar circumstances by this application. They had been accused in various quarters, of having brought the power of the institution to bear upon the politics of the country, and particularly with having taken sides against the present administration. Having invariably pursued a course in their transactions which recognised no distinction of political parties, it was very natural that, while laboring under the imputation just stated, they should have been scrupulous to avoid giving any color of foundation for it.

As the evidence and recommendation produced satisfied all the directors of the safety of the loan, they could not but feel that, if they refused to grant it, they would give countenance to an imputation which they were laudably anxious to avoid.

It is proper to add that James Watson Webb & Co., in their paper, the *Courier and Enquirer*, had declared themselves in favor of renewing the charter of the bank, some months before the application for their first loan; and that they stated to the directors on making application for the first loan, that the bank of New York had cut them off from their accustomed facilities, as they believed, in consequence of the espousing the cause of the

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that time, been under the impression that the money was obtained from the father of Mr. Silas E. Burrows, in Connecticut. The following extract from the testimony of Mr. Biddle will exhibit a clear view of this transaction:

"These notes were discounted by the exchange committee under the resolutions just referred to. They were done at the request of Mr. Silas E. Burrows, of New York. Mr. Burrows had, some time before, brought me a particular letter of introduction from an old friend, Mr. Monroe, the ex-President. Mr. Burrows had been very liberal to Mr. Monroe in his pecuniary misfortunes, and he had recently received from the President of the United States particular thanks and commendations for his generous conduct towards a Russian ship of war. I understood him to be a very rich merchant, of kind and benevolent disposition, and constantly engaged in doing acts of liberality. In one of his visits to Philadelphia, he said he was desirous of befriending Mr. Noah, and assisting him in the purchase of a share in a newspaper, and he asked if the bank would discount the notes of these parties, adding that, although, as a merchant, he did not wish to appear as a borrower, or put his name on a paper not mercantile, yet he would, at any time, do so whenever it might be necessary to secure the bank." "The committee being authorized to discount any paper, the security of which they might approve, agreed to do them. As Mr. Burrows was going out of town, I gave him the money out of my own funds, and the notes were afterwards put in my possession. They remained with me for a long time, as I had no occasion to use the funds; nor was it till the close of the year that my attention was called to them by the circumstance that, as a new board of directors, and a new committee of exchange, would soon be appointed, the same committee which made the loan should consummate it. I had seen also, in the public prints, many reproaches against the bank for lending money to printers and editors, and I was unwilling that any loan made by the bank should seem to be a private loan from one of its officers. Having no use for the money, it would have been perfectly convenient to let the loan remain as it was, but I thought it right that every thing done by the bank should always be distinctly known and avowed, and I therefore gave the notes to the chairman of the committee, Mr. Thomas P. Cope, who entered them on the books. On the 2d day of March, Mr. Burrows called at the bank and paid the notes. I ought to add that the loan was made at the request of Mr. Burrows, and that neither I nor any of the committee had ever seen Mr. Noah or Mr. Webb, or had any communication with them, direct or indirect, about the loan. It was made on the credit of Mr. Burrows, who afterwards paid it."

It appeared that Messrs. Webb and Noah avowed themselves in favor of a renewal of the charter of the Bank of the United States on the 8th of April, 1831. It is difficult, therefore, to conceive what possible influence could have been produced upon their course by a loan to Mr. Burrows, of which they had no knowledge. It is equally difficult to perceive how the loans of August and December, 1831, could have had any possible agency in producing the change which it is alleged took place in the course of these editors upwards of

bank direction composed of more upright, independent, and honest men, than that which granted the loans in question.

Most, if not all of them, are men of independent fortunes, having no connection with politics, and being entirely independent of banks. They are generally men who are engaged in a safe and successful business, with fortunes, which they have made, not by adventurous speculations, but by steady industry and moderate but certain profits. This is, indeed, the general character of the merchants and capitalists of Philadelphia—a circumstance which renders the location of the bank in that city peculiarly fortunate for the stockholders and for the country.

The next subject brought to the view of the House by the report of the majority, which it is now deemed necessary to notice, is that of the transactions of the bank with Thomas Biddle & Co.

Mr. Thomas Biddle, the principal member of the firm, is a distant relation of the president of the bank, and it was owing to this circumstance, probably, that his accounts underwent a most prying, not to say inquisitorial, examination.

The first thing that struck the attention of a part of the committee as worthy of scrutiny, was the fact that this House had obtained from the bank, in August, 1831, loans to the amount of upwards of a million of dollars, on a pledge of stocks—a sum which had been gradually reduced, however to about six hundred thousand dollars.

On examination, it was found that this loan had been made at the special instance and urgent solicitation of the directors of the bank; and that the bank, and not Thomas Biddle & Co., was the party accommodated. The Government having then recently paid off several millions of its stock, which the bank had owned, the consequence was, that a large portion of the money capital of the institution was rendered unproductive, and it became a matter of great importance to have it invested. In this state of things, the directors adopted a resolution authorizing the loan of a large sum at less than legal interest, upon the security of any good stocks. It is to be here remarked, that this was that portion of the capital of the bank which had never been invested, and which it was not deemed expedient to invest, in the active business of discounts. The loan of Thomas Biddle & Co. on the pledge of stocks was analogous to a loan to the Government. The stocks could, on any emergency, be sold, and converted into cash; so that this investment had, in some sort, the twofold attribute of money in the vaults of the bank, to meet any pressing demands against it, and money, at the same time drawing interest.

All the directors, who were examined on the subject, stated that they considered this transaction more for the benefit and accommodation of the bank than of Thomas Biddle & Co.; and the president of the bank of Pennsylvania stated, on oath, that the bank over which he presided would have been very glad to have made large loans to Thomas Biddle & Co., at the same time, and upon the same terms—the board of directors of that bank having authorized such loans at four and a half per cent.

There was one occurrence during the examination of the transactions of Thomas Biddle & Co. with the

examined the teller's drawer and the discount book, and found the facts which had been stated to him verified by the examination. He also stated, to give additional certainty to his averments, that he made a memorandum at the time, with the dates of the transactions, which memorandum he produced to the committee. Having thus unalterably fixed the date of the transaction, as if by some fatality, he went on to say, that he immediately proceeded into the room of Mr. Biddle, the president, and remonstrated with him against these irregular proceedings; and that Mr. Biddle promised him that they should not occur again.

Mr. Biddle was present during the examination of this witness. On that day, being on oath, he said that he was utterly astonished at the testimony of the witness, and could only oppose to it his solemn declaration that there was not one word of truth in it, from the beginning to the end. He added, that, from the relation in which the witness stood to him, he would have sunk into the earth, sooner than he would have dared to come to him with such a remonstrance as he pretended to have made. The officers of the bank, from whom the witness alleged that he derived this information, were examined, and all of them positively contradicted him. They testified and demonstrated from the books, that Thomas Biddle & Co. had never obtained money, in any instance, without paying interest, and that the two notes, which Whitney asserted to have been discounted by the president alone, had been discounted regularly by the directors.

In the interval between the adjournment of a committee, that day, and its meeting the next, a member of the board of directors suggested to Mr. Biddle, that he was, about the time of this alleged transaction, in the city of Washington. On examining the journals of the board and the letter book, it was found, by entries and letters, that for several days previous to the alleged interview between the president and Whitney, and for several days afterwards, the president was absent on a visit to this city, on the business of the bank, and General Cadwalader was acting as president in his place!

Thus was this artfully devised story, which was intended to blast the reputation of a high-minded and honorable man, through one of those extraordinary interpositions by which Providence sometimes confounds the contrivances of the wicked, made to recoil upon the head of its inventor, who must forever stand forth as a blasted monument of the speedy and retributive justice of heaven.

The minority of the committee will avail themselves of this occasion to say that they had the most conclusive evidence that, in all the transactions of the bank with Thomas Biddle & Co. and Charles Biddle, the president has been not only free from the slightest imputation of partiality or favoritism, but that his conduct has been invariably governed by a nice and scrupulous sense of delicacy and propriety. And this they feel authorized to say is the opinion of a majority of the committee. The following resolution was unanimously adopted by the committee:

Resolved, That the charge brought against the president, of lending money to Thomas Biddle & Co. without interest, and of discounting notes for that house, and for Charles Biddle, without the sanction of the directors, is without foundation; and that there does not exist any

bank in the system, and in the rates of domestic exchange, has been particularly beneficial to the whole of the Southern and Western States. Connected with the exchange operations of the bank, the transmission of specie from New Orleans to the Northern Atlantic cities is nothing more than a natural operation of trade, carrying the specie imported at New Orleans to its appropriate markets. This operation is carried on by the bank instead of being left to individuals, to the undoubted advantage of the community.

With a view to connect itself more completely with the commercial operations of the country, the bank has also deemed it expedient to deal freely in foreign exchange. It is obvious that this branch of its business is as important to the foreign commerce of the country as dealing in domestic exchange is to our internal commerce.

Having heretofore had large funds in Europe, and having still extensive credits there, it has been, and still is, the policy of the bank to afford to the mercantile community every facility for carrying on foreign commerce. At the South, where the staples of exportation are produced, it is constantly in the market as a purchaser of bills on Europe, to the great benefit of the planter; and at the North, where foreign merchandise is imported, it is as constantly in the market as a seller, to the like benefit of the importing merchant. In this way the price of foreign bills is kept uniform and steady, and those injurious fluctuations are prevented which would otherwise operate as heavy taxes upon the business classes of the community for the benefit only of private dealers in exchange.

The majority of the committee have selected for commentary a particular branch of the foreign exchange business of the bank—that which is connected with the trade of India and South America. This subject has been already explained in another form, and it will be sufficient to remark here, that it has almost entirely arrested the direct exportation of specie from this country to China, and that it saves to this branch of our trade the whole of the interest upon the entire amount of every commercial adventure, for at least six months out of twelve. On the subject of the general facilities which the bank has afforded to the country, in the operations of foreign commerce, the minority of the committee will refer the House to the perspicuous exposition furnished by the President, of the general operations of the institution, which is herewith submitted, and marked A.

It will be seen from this document, that, during the recent pressure upon the commercial community, produced by the excessive importations of the last two years, the bank furnished, since September last, "from its own accumulations and credits in Europe, the means of remittances in its own bills, to the amount of \$5,295,746, and parted with its surplus specie to the amount of five millions, making an aggregate contribution to our commerce of \$10,295,746."

The extent to which these operations of the bank must have relieved the country are too obvious to require comment. Without this temporary relief—and it was only temporary relief that the community required—the greatest commercial distress would have probably ensued. The crisis is now nearly passed. The pressure on the money market has, in a great measure, ceased; commerce has had time to correct its own excesses; importations have

Whatever show of plausibility there may be in this opinion, facts demonstrate that it is entirely erroneous. It will be seen from the statements herewith exhibited, that the domestic discounts of the bank had not increased perceptibly, from March, 1829, to March, 1831; but that they maintained an almost uniform level during the whole of the intervening period. The excessive importations, however, commenced in March and April, 1831, and must have had their origin in causes some months anterior. It is apparent, therefore, that these excessive importations were not produced by the excessive issues of the bank, and must have originated in other causes connected with the state of Europe. The more correct view of the subject is, to consider the excessive importations as producing a state of things which rendered it necessary for the bank to extend its discounts, with a view to relieve the community from the temporary pressure to which it was thus exposed.

It so happened that the very time the country stood most in need of bank accommodations, the bank had increased means and inducements to extend those accommodations. The Government having paid off, within the last eighteen months, ten millions of its stock, which was held by the bank, the directors found that if they did not increase their discounts considerably, some millions of their capital must be idle and unproductive. It thus happened that the wants of the community, the means of the bank, and, it may be added, the obligation of the directors to the stockholders and to the community, all co-operated to call for that extension of bank accommodations which, so far from having produced over-trading and excessive importations, has been the means of correcting and mitigating the temporary evils and embarrassments which these irregularities of trade would otherwise have unavoidably produced.

The minority of the committee deem it to be their indispensable duty to notice that part of the report of the majority, which institutes a comparison between the resources of the bank, and the condition of the country in 1819 and at the present time. They cannot but regard the comparison thus presented by the report as unfair and partial, and calculated to produce impressions on the public mind as absolutely erroneous as they would be positively pernicious.

If it had been the design of the majority to produce a scene of general embarrassment and distress in the commercial community, in the absence of any natural causes for such a state of things, they could not have adopted a more effectual means of accomplishing such an object than they have done in this part of their report.

Fortunately, however, for the country, the commercial community of the United States have too much intelligence to be thrown into a panic by the loose, disjointed, and garbled statements, the crude speculations, and the random conjectures in which a part of the committee have thought it expedient to indulge. If a general alarm has not ensued, producing a run upon the banks, a curtailment of discounts, and a general scene of failure and distress, particularly among the Government debtors in our principal importing cities, it is because the community understand the subject better than a portion of the committee, and have placed a proper estimate on their

of our foreign exchanges, and the relative value of bank paper and coin in our own markets. The foreign exchange is an infallible barometer to indicate the soundness or unsoundness of our currency. A reference to the state of the exchange between this country and Great Britain at this time, will furnish a conclusive reply to the charge brought against the bank, of having encouraged over-trading by excessive issues and a depreciated currency. In fact, specie is now flowing into the country, by the natural course of trade—a phenomenon which is utterly inconsistent with the alleged depreciation of our currency.

After making a partial and imperfect statement of the relative resources and responsibility of the bank in 1819, and at the present time, the report expresses the opinion that "at no period in 1819, when the bank was very near suspending payment, was it less able to extend relief to a suffering community, as [than!] at the present moment."

Now, the very complaint urged by a part of the committee against the bank is, that it has been too liberal in its discounts, or, in other words, that it has granted too much relief to a suffering community already; and yet it is here set down as a subject of lamentation, that the bank is not able to extend this relief still further! The country has just been laboring under a considerable, but temporary pressure upon the money market, during which the bank, with as much liberality as judgment, has put forth all its resources to sustain and relieve the commercial community. The crisis of this pressure has already passed by, and the necessities of the merchant for bank accommodations are gradually diminishing; and it is precisely at this point that a part of the committee, having complained that the bank went too far in its accommodations, when they were necessary, complains also, that it cannot go still further, now that the emergency is passing away.

The actual resources of the bank will now be stated, with a view to show its perfect ability to meet all its engagements. The specie in its vaults on the first of the present month was seven million eight hundred and ninety thousand three hundred and forty-seven dollars—being upwards of a million more than it was in March last.

There was due then, from the State banks, seven hundred and twenty-six thousand one hundred and ninety-six dollars. The domestic bills of exchange held by the bank on the first of May, amounted to twenty-three million fifty-two thousand nine hundred and seventy two dollars, ten millions of which will be paid in the course of the month, and none of which have a longer period to run than ninety days. These sums united, make thirty-one million six hundred and sixty-nine thousand five hundred and fifteen dollars—a fund, the greater part of which may be considered as available for any probable emergency of the bank, as so much specie in its vaults. These domestic bills of exchange are founded upon the actual operations of our internal trade, and are, in fact, drawn in anticipation of the Southern and Southwestern crops, which regularly arrive in the Northern and Eastern cities in time to pay them. They are uniformly and promptly paid at their maturity, without any expectation of a renewed accommodation from the bank, as in the case of discount-

other hand, the whole amount of the responsibilities of the bank, including the circulation, foreign debt, and public and private deposits, amounts to only forty-three million six hundred and eighty-five thousand six hundred and three dollars.

So that, instead of being reduced to the frightful predicament of leaving only "an aggregate of nine million six hundred and forty thousand dollars to meet an aggregate responsibility of forty-two million six hundred and forty-three thousand dollars," which the author of the report might well set down with two notes of admiration, the bank has undoubted resources amounting to eighty-two million fifty-seven thousand four hundred and thirty-eight dollars, to meet a responsibility of forty-three million six hundred and eighty-five thousand six hundred and three dollars.

In the actual state of the country it is visionary in the extreme to imagine the bank is in the slightest danger of being reduced to the necessity of "suspending payment." The whole amount of its circulation is now only twenty-two millions of dollars, and this is the only portion of its responsibility which can be properly taken into the estimate, in the view now under consideration. The deposits, except in periods when all commercial confidence is lost, so far from being properly regarded as a debt for which the bank should make provision, as for its circulation, are universally considered by all banks as a fund upon the faith of which they may safely issue their paper to an equal amount. Whatever may be the amount of the deposits at any given time, it is a fair calculation, founded on actual experience, that it will be equally as great at any future time.

If this were not the case, the Government deposits, about which so much has been said, would be of no value to the bank, but, on the contrary, a very great incumbrance.

Upon the whole, then, the bank is not only fully able to meet all its engagements, but is in a state of the highest prosperity. And it is but bare justice here to remark, that its general operations have been conducted with singular judgment and ability, in those very particulars which a part of the committee have selected as topics of disapprobation and censure.

The minority of the committee will barely advert to some of the other topics introduced into the report.

It is alleged that the bank has given an undue extension to its branches, and, by some process of reasoning, difficult to comprehend, it seems to be inferred that the alleged excess of the circulating medium is owing, in part, to that cause. It is sufficient to remark, on this point, that the greatest improvement which has been made in the administration of the bank, and that which gives it its true federal character, has been effected by the establishment of branches wherever the commerce of the country required them, and by the system of exchange operations which these branches have enabled the bank to carry into effect.

The whole business of dealing in domestic bills of exchange, so essential to the internal commerce of the country, has been almost entirely brought about within the last eight years. In June, 1819, the bank did not own a single dollar of domestic bills; and in December, 1824, it

The opinion of Mr. Cheves was founded on the peculiar state of things which existed at the time. He felt the difficulty of controlling these branches, of which, as he stated, the "directors were frequently governed by individual and local interests and feelings;" and he came into the administration at a time when immense losses had been suffered by their maladministration. But it is very important to remark—that the report does not bring to view—that almost all the disproportionate losses incurred by the branches were previous to 1819; and that, since the extension of the branches, of which the report complains, they have not sustained greater losses, in proportion, than the mother bank; while nine-tenths of the commercial facilities afforded to the country, and nine-tenths of the profits secured for the stockholders, have resulted from the operations of these branches.

The report makes reference to the obligation of the bank to transfer the funds of the Government to any point where they may be wanted for disbursement, and seems to have made the extraordinary discovery, that this operation is no burden at all, but an actual benefit to the bank! For the satisfaction of those who might be sceptical, the words of the report will be given:

"The largest portion of the revenue, particularly from imports, as is universally known, is collected in the Atlantic cities north of the Potomac. These cities being the great marts of supply to nearly the whole of the United States, and places to which remittances centre from almost every part of the country, creates a demand for funds upon them from nearly every quarter, constantly, and generally at a premium. Therefore, so far as the bank is called upon to transfer funds from those cities to other places, it becomes a matter of profit, and not of expense to it; and the greater the distance, the greater the premium; and the larger the amount they required to be transferred by the Government, and the greater the distance, the greater the profit and advantage to the bank."

If these views of the report be correct, the bank is certainly an invaluable institution. It has not only annihilated time and space, but it has done something more. It has produced such a state of the exchanges, that it is much easier for a man in New York to pay a thousand dollars in St. Louis, than to pay it in Wall street; and in which, consequently, the New York debtor actually makes a profit by being required to pay his debt a thousand miles off instead of paying it at his own door! If this be a correct view of the subject, it is undoubtedly one of the greatest of the modern discoveries in finance and commerce.

But the minority are still incredulous. They cannot understand how it is possible for the bank to make a profit by transferring funds, when it is expressly stipulated that they shall transfer them for nothing. Nor can they well conceive how the loss which the bank sustains by the operation of transferring funds for the Government can be less than the difference between the "nothing" which it receives from the Government, and the profit which it would derive from the same operation, if performed for individuals.

If the Government collected its revenues in specie at New York, and had occasion to expend it at St. Louis, it would certainly cost it something to transport the specie

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of the Government," as the report seems to intimate, a uniform currency and a revenue safely kept, and universally transferred at the risk of the bank, and without expense to the Government, affords no aid to its financial operations.

The report, adverting to a letter from the president of the bank, of the 29th March last, in which he informs the Secretary of the Treasury that the collector at New York had requested the "bank to authorize an extension of loans in that city, in order to assist the debtors of the Government," and that this had been promptly done, gives a view of the discounts of the office at that place, calculated to make the impression that no extension of loans had taken place. This is an error. It proceeds from confounding notes discounted with bills of exchange purchased by the bank. It will be seen by the weekly statement of the New York board, that the amount of notes discounted on the 1st of September, 1831, was \$4,103,184, and that on the 21st of March, 1832, a few days before the date of the president's letter, the amount was \$4,834,917, exhibiting an increase of \$731,732 in a little more than six months.

If the amount of domestic bills falling due at a distance, during the same period, were larger than the amount purchased by the bank, this fact has nothing to do with the extent of the accommodation afforded by the bank to the merchants of New York. The true measure of that accommodation is the amount of domestic notes discounted, and not the amount of these notes united to that of the domestic bills purchased.

That the bank has relieved the commercial community of New York, during the recent pressure, is a fact well understood and practically felt by the merchants there; and it will be difficult to reason them out of the convictions of their own experience by artful statements and conjectural inferences. Upon a review of the whole ground occupied in the examination they have made, the minority are of the opinion that the affairs of the bank have been administered by the president and directors with very great ability, and with perfect fidelity to all their obligations to the stockholders, to the Government, and to the country. They regard the bank as an institution indispensable to the preservation of a sound currency, and to the financial operations of the Government, and should consider the refusal of Congress to renew the charter as a great national calamity.

They will add, in conclusion, that they are equally decided in the opinion that Congress is called upon by the most weighty and urgent considerations to decide this important question during the present session. The uncertainty which prevails on this subject is calculated to exert a very pernicious influence over the industry, enterprise, and trade of the country. If the charter of the bank is not to be renewed, if the tremendous operation of withdrawing from the community fifty millions of bank accommodations, and twenty-two millions of its circulating medium, must take place, it is full time that it should be distinctly known, that the shock of this operation may be mitigated by timely arrangements on the part of the bank; and that the community may have time to provide the necessary substitutes. Considering the immense extent of the operations of this institution, the time which its char-

REPORT OF MR. ADAMS.

MR. ADAMS, of the committee appointed on the 15th of March, 1832, to examine and report on the books and proceedings of the Bank of the United States, submitted the following report:

The subscriber, one of the members of the committee appointed on the 15th of March last to proceed to Philadelphia to inspect the books, and to examine the proceedings of the president and directors of the Bank of the United States, and report thereon—and particularly to report whether the charter of the bank has been violated or not, dissenting from the report agreed upon by the majority of the committee, deems it his duty to submit to the House the considerations upon which his own conduct in the proceedings of the committee has been governed, and the conclusions to which they have brought his mind in relation to this subject.

It will be recollected by the House that the appointment of the committee was made upon a resolution offered by the subscriber as an amendment to a resolution previously offered by the chairman of the committee. The amended resolution adopted by the House was predicated on the principle avowed by the proposer of the amendment, that the original resolution presented objects of inquiry not authorized by the charter of the bank, nor within the legitimate powers of the House—particularly that it looked to investigations which must necessarily implicate not only the president and directors of the bank, and their proceedings, but the rights, the interests, the fortunes, and the reputation of individuals not responsible for those proceedings, and whom neither the committee nor the House had the power to try, or even to accuse before any other tribunal. In the examination of the books and proceedings of the bank, the pecuniary transactions of multitudes of individuals with it, must necessarily be disclosed to the committee, and the proceedings of the president and directors of the bank, in relation thereto, formed just and proper subject for inquiry—not, however, in the opinion of the subscriber, to any extent which would authorize them to criminate any individual other than the president, directors, and officers of the bank or its branches—nor them, otherwise than as forming part of their official proceedings. The subscriber believed that the authority of the committee, and of the House itself, did not extend, under color of examining into the books and proceedings of the bank, to scrutinize, for animadversion or censure, the religious or political opinions even of the president and directors of the bank—nor their domestic or family concerns—nor their private lives or characters—nor their moral, or political, or pecuniary standing in society: still less could he believe the committee invested with a power to embrace in their sphere of investigation, researches so invidious and inquisitorial over multitudes of individuals having no connexion with the bank other than that of dealing with them in their appropriate business of discounts, deposits and exchange.

In these views he felt himself the more confirmed, because he perceived no other course of inquiry that could be pursued, without invading the sanctuary of private life, and committing outrage upon the most precious of social rights. The transactions of the bank with their

count of any individual; and, in the by-laws of the bank, there is a provision that no stockholder shall be permitted to inspect any account of any person with the bank, other than his own. The same restriction is not indeed applied to the authority given in the twenty-third section of the charter to the committees of either House of Congress appointed to inspect the books and examine the proceedings of the corporation; but that section neither gave nor could give powers of judicial authority to be exercised over any individual for purposes of crimination or of trial. The committee are to inspect the books and examine the proceedings of the corporation, and to report thereon. But they are not authorized to examine or report upon the accounts or proceedings of individuals. The examinations by committees authorized by the charter are, from the context of the sections, evidently given as preliminary means for bringing the corporation, in the event of malpractice, on their part, real or suspected, before a judicial tribunal for trial. Whenever a committee so appointed reports that the charter has been violated, the final action of Congress in the case is limited to the discretionary power of directing that a *scire facias* should be sued out from the circuit court of the United States for the district of Pennsylvania, requiring the corporation to show cause why their charter should not be declared forfeited. But so justly and so wisely tender was the Congress which constituted the corporation to reserve to the president and directors of the bank the enjoyment of their civil rights, that the same section which gives to Congress this control over them, expressly provides that, for the trial of the facts at issue between them and the United States, upon the return of the *scire facias*, they shall be entitled to the benefit of a jury. The corporation, therefore, cannot ultimately suffer by deprivation of their rights upon the unfavorable report of any committee of Congress, nor even by the order of Congress itself, that a *scire facias* should be sued out. The protective shield of the constitution, trial by jury, is extended over them; the sacred trust of their franchises is expressly placed under the guardianship of that power conservative of all individual rights—the verdict of their peers.

In the present case, the resolution originally offered by the chairman of this committee was avowedly presented for another purpose—not with a view that the final action of the House upon the result of the examination should be the direction that a *scire facias* should be sued out to give the corporation the benefit provided for them by the law itself, of a fair trial by jury, but that by ransacking all the books and proceedings of the corporation, from its first organization to the present day, some latent fraud, looseness, or irregularity, might be detected in the proceedings of the president and directors, present or past, of the company, which might be elaborated and wrought up into an argument against the renewal of the charter of the institution. This was the avowed purpose of a member claiming the right of being considered as a perfectly fair, cool, and impartial investigator of those proceedings, and, at the same time, that if the result of them should be to exonerate from all blame the responsible officers of the company, the inquisitor should still be at liberty to vote and speak against the renewal of the charter, upon the ground of constitutional scruples.

to the judicial courts. It is a familiar argument to many expounders of the constitution of the United States, that no power granted to Congress can be exercised for any other purpose than that for which it was granted. The importance of this principle may be seen in the consideration that it is the only foundation of the argument against the constitutionality of a protective tariff. It is contended that a grant of power to levy taxes, duties, and imposts, to pay the debts, and provide for the common defence and general welfare, cannot justly be construed into a power to levy the same duties, taxes, imposts, and excises, for the protection of manufactures. If there be any soundness in this principle, apply it to this reservation of power in either House of Congress to appoint investigating and examining committees on the books and proceedings of the bank. The power is reserved for the purpose of enabling either House of Congress to put the president and directors upon trial for delinquency—upon trial by the judges of the land—upon trial by a jury of the vicinage. It is not reserved for the purpose of enabling a committee of the House to ruin the president and directors in fortune or reputation, by a partial, prejudiced, electioneering report; condemning them as victims of political rancor, without law or justice—without judge or jury; nor is it reserved even to enable the House to determine the expediency of renewing the charter of the bank. The power is not reserved for that purpose; nor, if there be any soundness in the argument against the constitutionality of the protective tariff, can it be exercised for that purpose. In this view of the subject, the House would not even have possessed the lawful power of appointing the committee. The committee was appointed not for the purpose of putting the president and directors of the bank upon trial; nor was it intended by the mover of the resolution that they should have the benefit of a trial by jury.

It is not the intention of the subscriber to press this course of reasoning; to which, in its application to the tariff, he does not yield his assent. To those who hold the doctrine that the purpose for which a power is granted forms an indispensable condition for the lawfulness of its exercise, he leaves the argument to bear with its proper weight. But if under a power to appoint investigating committees, to ascertain, by the verdict of a jury, whether the charter has been violated or not, a constructive power is given to sport with the feelings, and fortunes, and reputation of honest and honorable men, because they happen to hold the offices of president and directors of the bank of the United States, there is surely no authority given in the bank charter to pry into the accounts and pecuniary transactions, and to scrutinize the fortunes and characters of thousands of individual citizens of the Union, merely because they have an account in bank, which, in the examination of the books and proceedings of the corporation, must incidentally be disclosed. The subscriber is under a deep and indelible impression that no such power is given to Congress by the charter of the bank; nor does he believe that such a power can be exercised, without flagrant violation of the principles upon which the freedom of this people has been founded.

It was under this impression that he moved the amend-

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that is, from those who had voted against the amendment adopted by the House.

The question of the principles upon which the examination was to be conducted, occurred immediately after the arrival of the committee at Philadelphia, and it was determined conformably to the views of a majority of the committee, representing, so far as the views of the House had been manifested, a minority of the House.

There was accordingly no restriction to the latitude of investigation, as it had been proposed in the original motion of the chairman of the committee. No objection was made on the part of the president and directors of the bank, excepting that the President did remind the committee of the confidential nature of the transactions between the bank and its customers, with the assurance of his reliance that it would be considered and respected. All their books, and all the accounts of individuals with the bank, called for by any member of the committee, were exhibited to them. Had there been a member of the committee thirsting for the ruin of a personal enemy, or a political adversary, and who, by this inquisition into the accounts of all who had dealt with the bank, could have been put in possession of facts, the disclosure of which might have destroyed his peace, his fortune, or his fame, the opportunity afforded him by this course of proceeding would have been too inviting to have been resisted. That there was such a member upon the committee, the subscriber does not affirm. The eagerness with which private accounts were sought for, and, in an especial manner, those of editors of newspapers, members of Congress, officers of Government, and all indeed possessing political influence themselves, or likely to suffer in public estimation by exposure of their private and pecuniary concerns, flowed, it is to be presumed, altogether from patriotic principles, and a stern abhorrence of corruption. The natural and irresistible tendency of all investigations conducted on such principles must be to substitute passion in the place of justice, and political rancor in the place of impartiality. In all times of party excitement, the members of the legislative assembly are placed in attitudes of keen and ardent opposition to each other. We have constant experience of the personal animosities into which all debates, on questions of deep public interest, are continually running. An individual member of this House, who presents himself in the attitude of an accuser, not only calls for the investment in himself of an extraordinary power; but, if he prosecute himself, the accusation claims the exercise of powers which in no general system for the administration of equal justice can ever be united. The spirit of the prosecutor is not the spirit of the judge. Whoever voluntarily assumes the former capacity, disqualifies himself for the unimpeachable performance of the latter.

During the present session of Congress, two instances have occurred of inquiries instituted into the conduct of executive officers of this Government—one bearing upon the Second Auditor of the Treasury, and the other upon the Commissioner of the General Land Office. In each of those cases the member instituting the inquiry moved its reference to a committee of which he was not himself a member. There was no law, nor

against the bank, seemed to be divested of personal animosity, and this, perhaps, may have induced the chairman to lose the consciousness of incongruity in the exercise at once of prosecuting and of judicial powers. These observations are deemed indispensably necessary to elucidate the spirit in which the examination was conducted—partaking, throughout, of this unusual union of the prosecuting and of the judicial character. Among the charges exhibited by the indictment, not ostensibly against any individual, but against the bank, was one of subsidizing the press by special favors and accommodations to editors of newspapers; another for special favors and accommodations to members of Congress. In all this the chairman of the committee appears to have entertained the opinion that because the charges were in form against the bank, they were not at all to be considered as affecting the integrity of the persons upon whom they might chance to fall. He frequently disclaimed all intention of putting upon trial the character of the president of the bank, and he appears to have been quite unaware upon whom his denunciations might eventually be found to descend. The subscriber believed that there was a great want of precision in the definitions of the chairman of the committee in his original motion, of the crimes which he denounced. Take, for example, the charge of subsidizing the press. If a violation of law be an essential ingredient in the composition of crime, there was no law which prohibited the bank from subsidizing the press; nor was there any law which prohibited the president and directors of the bank from affording facilities and accommodations to editors of newspapers. On the other hand, there is, perhaps, no class of citizens in the community, who, by the nature of their profession, may more frequently need the aid of bank facilities, or to whom they may be more signally useful; and, in proportion to the extensiveness of a printing establishment, will, of course, be the amount of the accommodations which they may require. Why then should the bank be laid under an interdict for subsidizing the press? Why should the president and directors of the bank be chargeable with gross and palpable corruption, because large accommodations and facilities, in the regular course of banking operations, have been afforded to editors of newspapers? There appears to the subscriber to be included in the principle of this charge a very dangerous assault upon the freedom of the press. A principle proscriptive in its nature, and the application of which, if once assumed by the authority of the Legislature, could be successful only in reducing the press to servile subserviency to whatever party might command a momentary majority in the two Houses of Congress. The editors of newspapers are not responsible to Congress for the political principles which they may advocate or oppose. Nor can the Legislature take cognizance either of their consistency or of their political purity. They are responsible for their opinions to their subscribers, and to the public opinion of their country. To hold them to this responsibility, their rivals, and competitors, and political adversaries, are sufficiently watchful and sufficiently armed. The opinions and interests of majorities in Congress will never lack for presses to sustain themselves. But if, in addition to that common interest of

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for the appointment of the committee, the subscriber did earnestly, though ineffectually, resist and oppose the call by the committee for the accounts with the bank of editors of newspapers. To all persons of that highly respectable and important profession, their accounts in bank were, as well as to other members of the community, their private and domestic concerns, which no power to examine the books and proceedings of the bank could authorize a committee of this House to expose to public gaze. To single out the editors of newspapers for this invidious exposure was, in the opinion of the subscriber, to disfranchise them of their rights as citizens and as men, and was to assail them in their reputation, their interest, and their credit; not for the purpose of bringing them to trial by jury, where they might defend themselves, their fortunes and their characters in presence of their peers, but to hold them up as accomplices in corruption with the bank. To accomplish two objects by one operation—to defame the bank by colorable charges of corruption, which it would never have an opportunity to repel by a fair trial, according to the laws of the land—and to defame any editor of a newspaper having an account in bank, whose politics might be obnoxious to a majority of the committee, instigated by the rivalry and hatred of antagonist editors of other newspapers in the same city, or neighborhood.

The majority of the committee did, the subscriber doubts not, with pure intentions, otherwise decide, and the accounts of editors of newspapers with the bank were called for. In reviewing this decision, and the proceedings of the committee subsequent upon it, he deems it his duty to declare that none of his objections to it have, in his judgment, been removed. He views it as a precedent of portentous evil; as an unjustifiable encroachment of arbitrary authority upon the freedom of the press; as an odious persecution of individual citizens, to prostrate the influence of personal or political adversaries by the hand of power.

Of this class of accounts, thus produced, those of one newspaper establishment only underwent the investigation of the committee—those of James Watson Webb and Mordecai M. Noah, editors of the *New York Courier and Enquirer*, one of the most distinguished and extensively circulated journals of the Union. Mr. Webb was examined upon oath by the committee at his own request. Mr. Noah transmitted to the committee his own affidavit made before a magistrate of the city of New York. Mr. Silas E. Burrows, a private citizen, not an editor of a newspaper, but connected with the responsibilities of Messrs. Webb and Noah in the bank, was subpoenaed to appear before the committee, but, as the subscriber believes, with a just estimate of his own rights, did not give his attendance. No proposal was made in the committee to issue a compulsory process against him. As editors of a public journal, and in that character as guardians and protectors of the freedom of the press, the subscriber is of opinion that neither Mr. Webb nor Mr. Noah ought to have appeared in person or by affidavit before the committee. If in their transactions with the bank they had committed any violation of law, they could not be examined as witnesses to criminate themselves; if they had committed no violation of law, the inquisitorial powers of

had crept into public notice, it was certainly not unnatural, and perhaps not improper in them, to state, in full candor and sincerity, what their transactions with the bank had been.

From these, it appeared that, in August, 1831, James Watson Webb obtained at the Bank of the United States a loan of twenty thousand dollars, upon his own note endorsed by Mordecai M. Noah. The application for this loan, made in person by Mr. Webb, was sustained by a letter from Mr. Noah, and sundry statements relating to the pecuniary condition and credit of the *New York Courier and Enquirer*. The letter from Mr. Noah was enclosed to the president of the bank by Walter Bowne, mayor of the city of New York, who had been one of the earliest directors of the bank, with a recommendation of the application itself to be considered as a business transaction. It was so considered by the board of directors who acceded to the loan desired. But the editors of the *Courier and Enquirer* had long been, as they still are, ardent and active political partisans, and their newspaper has been and continues deeply immersed in that portion of political affairs immediately connected with elections. The peculiar character sustained by the paper and its editors, at the time when this application for a loan was made, was that of devoted friends to the present administration, and particularly to the eminent citizen at its head. This character they and their paper still retain. They have, of course, numerous adversaries of the opposing party, and numerous rivals in their own. Some time before this application for a loan from the Bank of the United States, there had been between them and some of their competitors for party and public favor a newspaper war, with regard to the conduct of their journal, and the opinions of its editors with reference to the Bank of the United States. In all this, the interest of rival printing offices, and rival banks, may, without breach of charity, be presumed to have been very willing auxiliaries to editorial virtue and the unsullied purity of the public press. The politics of the paper had been, or were thought to have been, successively hostile and friendly to the Bank of the United States. In this state of things, it is stated by Messrs. Webb and Noah, that two or three of the banks in the city of New York denied them the accommodation of loans which they had previously yielded, and refused to discount for them paper of unquestionable credit. They affirm that these city banks, in punishment of their friendliness for the Bank of the United States, withdrew from them facilities previously extended to them, and required the payment of a large accommodation loan for which they were indebted. To discredit these imputations, re-affirmed by Messrs. Webb and Noah in their testimony upon oath before the committee, a majority of the committee deemed themselves authorized to send a commission, and request the presidents of the two city banks in New York to make affidavits before a magistrate, giving notice thereof to Messrs. Webb and Noah, and to transmit those affidavits to the chairman of the committee at Washington. The depositions of Isaac Wright, president of the City Bank, and of Albert Gallatin, president of the National Bank, at New York, were accordingly taken and transmitted to the chairman of the committee. They did not in the slightest degree impair

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of directors. At the other bank, any note is rejected to which two of the directors concur in objecting, and that no director is required to assign any reason for his objection to any discount. In these answers of the two presidents, the subscriber cannot forbear to remark a demonstration of the impropriety of the call by the committee upon those gentlemen for their testimony in this case. The object of the call was to impeach the truth of testimony given by the two witnesses, Webb and Noah, upon oath before the committee—witnesses whose veracity stood as fair before the committee as that of any other citizen of the community, and who, in the opinion of the subscriber, could consider the call itself on the presidents of the New York banks to contradict them, in no other light than that of a gratuitous and wanton insult upon themselves. Of the fact that notes offered by Webb had been rejected at the New York banks, no doubt was or could be entertained. The reasons of the rejection were avowedly inferences of Mr. Webb and Mr. Noah, which might even have been incorrectly drawn by them, without impeachment of their veracity. The committee could not, in the opinion of the subscriber, possess the right of calling upon the presidents of the New York banks for the reasons of their refusing discounts to James Watson Webb, or to any other man. The call itself was a violation of individual right, and the refusal to answer it, though in terms entirely respectful and dispassionate, carries with itself a censure upon usurped authority, not undeserved.

To this call upon the presidents of the New York banks, the subscriber had another objection. The chairman of the committee had, by an act of Congress, authority to administer oaths to witnesses, and the committee had received from the House authority to send for persons and papers. But the subscriber did not consider the committee as possessing the power of delegating to other men authority to take depositions from persons whom the committee were authorized to call before themselves, and to hear in person. No member even of the committee, other than the chairman, was authorized to administer an oath. To administer oaths to witnesses was in the competency of the chairman specially authorized by statute. To send for the persons and papers existing, was in the competency of the committee, authorized by the House. But to direct to be taken, and to receive as testimony, depositions of persons whom the committee might have summoned to appear and testify before themselves, was, as the subscriber believed, to transcend their lawful authority, and to set a precedent which would lead to most pernicious abuses. This encroachment of power could not be justified by the request of the chairman of the committee to the deponents, that James Watson Webb and Mordecai M. Noah, the persons whose testimony it was supposed these depositions would discredit, should have notice of the time and place, when and where they should be taken. To give notice of a deposition to be taken to impeach the testimony of another, is the duty of a party to a cause, and not of the deponent himself. The witness whose testimony is to be discredited cannot be bound to receive a notification from the witness called to discredit him. The volunteering of a committee to send forth mandates in

lations between Messrs. Webb and Noah and the local banks of New York, it was with these statements and allegations that Mr. Webb, in August, 1831, applied to the president and board of directors of the Bank of the United States, for an accommodation loan of twenty thousand dollars. The president and directors considered it as it had been viewed in the recommendation of the mayor of New York—as a business transaction. Yet it did not escape their attention, that a political coloring might, and probably would, be given to it by the inveterate enemies of the bank. They were aware that, if the loan was granted, it would be liable to the charge of a favor dispensed, to purchase the aid and support of the newspaper in behalf of the bank; and, if it should be denied, it would be charged as proof of hostility to the administration of the General Government and its chief. Sure that they could, in no event, escape the censure of enemies predisposed to blame, they granted the loan, to which, afterwards, in December, an addition of fifteen thousand dollars was made. Notes of Mr. Webb, endorsed by Mr. Noah, and payable to Silas E. Burrows, had been previously discounted for Mr. Burrows, but without the knowledge of Webb or Noah, as they testify, to the amount of seventeen thousand dollars. Of these sums so much has been paid, that there now remains due from Messrs. Webb and Noah to the bank, a sum of about eighteen thousand dollars, payable in semi-annual instalments, and, from the statements laid before the committee, believed by the subscriber to be as safe as any other debt upon the books of the bank.

The transactions of James Watson Webb and of Mordecai M. Noah with the Bank of the United States, formed, in the opinion of the subscriber, no proper subject of examination by the committee, or of investigation to the House, further than to ascertain whether, in those transactions, there had been any violation of the law of the land. Within the pale of the law, if this be a Government of laws, and not of men, Webb and Noah were not amenable for their conduct, or their opinions, to the House of Representatives of the United States, or to any committee by them appointed.

In behalf of the United States, as large stockholders in the bank, a general superintendence over the proceedings of the president and directors of the bank is, no doubt, vested in the Congress. But the subscriber does not believe that the president, or any director of the bank, is, or can be, accountable to a committee of either House of Congress, or to the House itself, for the motives or reasons upon which he acceded or objected to any one discount. The practice of all well regulated banks is, and must be, that declared by the testimony of the president of the two banks in New York to be theirs. The reasons or motives for accepting or rejecting a note offered for discount, are not subjects of inquiry at the board itself. The reasons of each director are in his own breast. His own colleagues at the board have no right to inquire into them. They are in his own discretion.

It is indeed within the bounds of possibility that this discretion should be abused, to the injury and damage of the stockholders. But in the transactions of the bank with Webb and Noah, no loss or damage has occurred to the stockholders, nor is any to be apprehended. In the origi-

overt or covert acts this offence, thus novel and undefined, consisted: nor, except in the proceedings of the majority of the committee, can the subscriber yet comprehend what are the elements of this new and still undefined offence. The majority of the committee, immediately after entering upon the discharge of their duties at Philadelphia, commenced a search into all the accounts with the bank of editors of newspapers. In the returns to this demand, it was found that Webb and Noah, far from being solitary culprits in this unheard-of transgression, were in the very respectable company of the editors of the *National Intelligencer*, of the *National Gazette*, of the *United States' Telegraph*, of the *Globe*, and the *Richmond Enquirer*. This information was scarcely in the possession of the committee before it found its way into the public journals, and thus all the editors of those well known prints stand, by an exhibition of their private accounts, charged before the public as conductors of presses subsidized by the bank. The committee did in no other instance than that of the *New York Courier and Enquirer*, go into an investigation of the reasons or motives for which the discounts or the loans had been granted. Political motives were unequivocally and explicitly disclaimed by the president and directors, who assented to the loans; and while in this, as in all other banks, the practice is uniform of never assigning the reasons either for discounts or rejection, they are not and cannot be made subjects of testimony. Every member of the board has his own reasons, which may not be known to any other member. One member, therefore, is not responsible for the reasons of any member, nor is the board responsible for the reasons of any one of its members. Motives can then be made a subject of scrutiny only upon suspicions—political suspicions, sharpened by the collisions of personal pecuniary interests.

The subscriber believes all inquiry into the motives of bank facilities or accommodations to be not only pregnant with injustice to individuals, but utterly beneath the dignity of the Legislature. Their rights of inquiry are commensurate with the law. For actions within the bounds of law, to scrutinize motives, is tantamount to an inquisition of religious opinions—a species of moral and intellectual torture, fitted more to the age of Tiberius Cæsar at Rome, than to the liberal spirit of the present time. The discount of notes at a bank, whether to a large or small amount, can in no case be considered as donations or gratuities. They are contracts of mutual equivalents for the benefit of both parties, in which the bank is no more the benefactor of the customer than the customer of the bank.

As the period of time is approximating at which the present charter of the Bank of the United States is to expire, the question, with regard to the renewal of its charter, has become an object of great and increasing public interest. The duties of the president and directors of the bank to protect and promote the interests of the stockholders, naturally make it an object of intense and earnest desire to them. Independent of all personal and individual interests of their own, these obligations to the company require of them to use all fair and lawful means to obtain a renewal of the charter. Were it even true that, under these circumstances, they should indulge a disposition to the utmost bounds of liberality,

obnoxious to the system of safety fund banks in the State of New York; inasmuch as their discounts, at the rate of six per cent. a year, curtail one per cent. of the dividends which otherwise, by the laws of New York, they would be enabled to levy upon the community. It is, therefore, not surprising, that in the city, and even in the State of New York, animosity against the Bank of the United States, of almost all the local banks, should have been so great as even to spread its influence into the Legislature of the State. The same operation is active, under feebleness of excitement, in many other States. These are not bribes. But the concert of opposition from State banks, in almost every quarter of the Union, organized with harmonious energy, in concert with public journals, perhaps as numerous, and constantly operating upon the public mind unfavorably by means of the press, made it indispensably necessary for those to whom the welfare of the corporation was entrusted to defend themselves occasionally, and from time to time, in the same manner.

If, while hundreds and thousands of the conductors of State banks, impelled by private and personal interests, are filling the popular public journals under their influence, by means of discounts and facilities granted or withdrawn, with every charge that suspicion can conceive, or imagination can invent, to invoke popular resentment and indignation against the Bank of the United States, to prevent the renewal of their charter, the president and directors of the Bank of the United States are forbidden all use of the public press, for the defence and vindication of their own institutions, they stand indeed in fearful inequality of condition with their adversaries before the tribunal of public opinion. The local banks of New York, for example, grant, with lavish hand, bank accommodations and facilities to the editor of a daily newspaper, who fills his columns with all the commonplaces of vituperation against the Bank of the United States. They deny all facility and accommodation to another editor, who admits into his papers essays or communications favorable to that bank. Does the editorial votary of State banks, and seven per cent. interest, slacken in his fervor, his discounts at the State banks are curtailed. Does he falter in his zeal, a pressure for money comes upon the State banks, and his notes are called in. Does he dare to admit into his paper a communication favorable to the mammoth bank, he loses all credit with his old bankers. Does he presume to hint, in an editorial article, that, after all, a bank bound to discount at the rate of six per cent. interest may be of some advantage to borrowers in a community where the established legal rate of interest is seven, he becomes, at once, in the estimation of the local bank directors, insolvent, and blasted in credit; and, if he offers for discount a note of a hundred dollars, with the best endorser in the city, it is rejected by the silent vote of one or two directors, because the editor's newspaper did formerly oppose, and now ceases to oppose, the rechartering of the Bank of the United States. And then, if the editor, cramped and crippled in his business by the screw thus put upon his press, to save himself and his establishment from ruin, applies to the president and directors of the bank of the United States for an accommodation loan—no; they, too, must regard him as insolvent, and blasted in credit—they, too,

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their answer must have been the same. The acceptance of an offered note is, by unanimous and tacit assent, without assignment of reasons, and for which the reasons of one director are not necessarily the reasons of another. They are not proper subjects of inquiry, so long as the discount is in violation of no law. And this principle is equally applicable to the president and directors of the Bank of the United States. They are amenable to authority only for conformity to the law. To the stockholder they are further accountable for the prudent and discreet employment of their funds. But, while the result of that management has been, for a series of years, to yield to the stockholders half-yearly dividends of three and a half per cent. upon their investments, while the stock of the bank is at twenty-five per cent. advance upon its original cost in the market; and whilst the heaviest of all the complaints against the bank is the extensiveness and universality of its credit; the subscriber believes that the stockholders, and the most vigilant guardians of their interest, may wait until an actual loss shall have happened upon any one loan or discount, before they shall be justified in imputing either thriftless improvidence or sordid corruption to the president and directors of the bank for having granted it.

The constitution of the United States denies to Congress itself the power of passing any bill of attainder, *ex post facto* law, or law abridging the freedom of the press. But here is a new fangled offence created *ex post facto*, under the denomination of subsidizing the press to operate as a bill of attainder upon the bank, and as a disfranchisement to every editor of a public journal who may happen to be obnoxious to a political party in power. The fact constituting this most extraordinary crime, is the mere existence of a loan, or discount of the proscribed editor at the bank: a transaction entirely warranted by law; but in the consummation of which, a committee of one branch of the Legislature first assumes the right of scrutinizing and then of passing sentence of condemnation upon the motives of both parties to the contract. As there is no law constituting the offence, the degree of its malignity has no rule of proportion but that of the temper by which it is prosecuted—it will be aggravated by every stimulant of private pique, of clashing interest, of political prejudice, or of morbid suspicion, which can be enlisted in the prosecution. A committee-man being a large stockholder in a State bank, to be deeply benefited by the extinguishment of the Bank of the United States; another, linked in connexion with a newspaper establishment in competition with the editor to be attainted; a profound political economist, wedded to a system of coin, currency, and credit, propitious to one banking interest, and unfavorable to another; a mere partisan hanging upon the skirts of a political candidate, and following the camp to share in the spoils of the victory, might all club their inventive faculties to swell this imaginary trespass into a felony; and seldom would there lack, as an ingredient in the composition, the corrosive sublimate of a malicious temper, with instinctive hatred of all honor and integrity, prone always to infer actual fraud and villany from the mere possibility of its existence, and even to insinuate corruption, without daring openly to affirm it. These are consequences which must and

let it, for argument's sake, be admitted that the accommodation of a loan to the editor of a public newspaper, by the president and directors of the Bank of the United States, is, on their part, an act of corruption of which the Congress of the United States, without doing injustice, and without derogation from the dignity of their duties, can take cognizance; the subscriber believes that it cannot justly have any hearing whatever upon the question whether the Bank of the United States shall or shall not be rechartered.

Admit that, in a country where the freedom of the press is among the first elements of the liberty of the people, a committee of one House of Congress has a right to constitute, *ex post facto*, a crime under the name of subsidizing the press, of that which, in the eye of the law of the land, is, and always has been, innocent: admit that they have power to search into the hearts of the president and directors of the bank for dishonest motives to lawful actions: admit that they have a right to interrogate them for reasons which no director of any bank is ever bound to give: admit that, after the president and directors have submitted to these insulting interrogatories, and assigned the reasons by which they were actuated, the committee should still feel themselves justified in groping day after day for circumstantial evidence to falsify the frank and explicit declarations of men without a slur upon their fame—that piles of folio volumes, of bank accounts, should be rummaged over, nights and days, for a variety in the color of the ink, in entries made by different clerks, with different ink-stands; for errors in the spelling of a name; for interlineations and erasures in a waste book or a tickler; and all to substitute trifles light as air of suspicion, in the place of fact, and to impute fraud, forgery, and perjury where they cannot be proved: admit that the unsullied characters of men, long known among their fellow-citizens for lives without fear and without reproach, may thus be breathed and whispered into disgrace; what has all this to do with the question whether the Bank of the United States shall receive a new charter or not. If the president, and any number of the directors, have been guilty of malversation in their offices, the remedy for their offence is removal from office. They may be further responsible to the stockholders in their persons and property. The directors appointed by the President and Senate are, at all times, removable by the President of the United States alone. The president of the bank is every year liable to removal, both as president and as director, by failure of re-election as a director by the stockholders, or as president by the directors. No other director can be re-elected more than three successive years in four. If the board of directors have been guilty of neglect or violation of their duties, the punishment of their delinquency is to appoint another set of directors in their place; not to punish the innocent and injured stockholders by refusal to renew the charter. By the rotation prescribed in the charter itself, not one of the present board of directors can remain in office at the time of the expiration of the charter, nor can the present president of the board ever be president of the bank under the renewed charter, but by the suffrage of the stockholders, according to their respec-

the political inquisition of Venice, or the religious inquisition of Spain—a theory by which the crime would be committed by one set of persons, and the punishment inflicted upon another—a theory by which the stockholders would be mulcted in their property, because the directors had been faithless to their trust; and the people bereft of public blessings, because their confidence in the integrity of their agents had been betrayed.

At the close of the long commentary of the majority report upon the transactions between the editors of the *New York Courier and Enquirer*, it is observed, that, among the documents exhibited to the committee, and reported to the House, are four other cases of loans, at long credit, made by the bank. The report neither mentions the names of the individuals parties to these contracts, nor the correspondence and testimony relating to them, which were laid before the committee. The subscriber, approving the discretion of the majority in this particular, will not deviate from the example set in the report. He will barely take occasion from it to remark, that the names of those individuals, and of their accounts and transactions with the bank, cannot be brought before the public by the committee, without gross injustice. Those transactions, he is bound to believe, were perfectly justifiable in all the parties to the contract; but he was under a full conviction that neither he, nor the committee, had the right to inquire into them, whether for justification or for censure. The objection of the subscriber is to all inquisition into motives for actions unforbidden by law. But in each of these four cases—in those of the accounts of every editor of a newspaper, of every member of Congress, and of every person connected with the Executive Government—if the fact of the individual account is exhibited to the public, it is, upon the plainest principle of justice, the right of the individual to have alike exhibited to the public all the circumstances connected with the transactions which he may deem essential to his justification. But what is that justification? Is it justification limited by the boundaries of the law? No, that is not sufficient. The account in bank must be coupled with the conduct and opinions of the individual, to point the finger at him, and at the bank, as for dishonorable conduct and corrupt purposes. So it was in the case of James Watson Webb and of Mordecai M. Noah. Why was it not so in other cases? Why are the names of other printers, and the amount and the aspect of their debts to the bank, as principals or as endorsers, withheld? Why are other editors, having large accommodations in the bank, the names of their endorsers, the character of their settlements, the present state of their engagements, and a contemporaneous exposition of their editorial friendship or hostility to the bank, not set forth in all the developments of the bank debts and editorial speculations of James Watson Webb and Mordecai M. Noah? Why are not the day of an editorial discount and the day of an editorial puff of panegyric, or blast of abuse upon the bank, brought in juxtaposition to each other, so that suspicion may yoke them together in the relation of cause and effect in any other case than theirs? The subscriber believed that there were other accounts of editors and printers with the bank exhibited to the com-

into the books and proceedings of the Bank of the United States; into the political purity and undeviating consistency of the conductors of the public press.

It is with great satisfaction that the subscriber declares his entire and undoubting conviction, as the result of all the examination which, under the resolution of the House, and the unbounded range of inquiry sanctioned by the majority of the committee, he was able to give the books and proceedings of the bank, that no misconduct whatever is imputable to the president, or to any of the present directors of the bank. That, in the management of the affairs of this immense institution, now for a series of nearly ten years, occasional errors of judgment, and possibly of inadvertence, have been committed, is doubtless true—in the vast multitude of relations of the bank with the property of the whole community, the board of directors of the parent bank, or of some of its branches, have sometimes mistaken the law, and sometimes have suffered by misplaced confidence. A spirit of predetermined hostility, uncontrolled by a liberal sense of justice, prying for flaws, and hunting for exceptions, may gratify itself, and swell with exultation at its own sagacity, in discovering an error or arguing a misconstruction of powers. In the conduct of the present president and directors of the Bank of the United States, no intentional wrong and no important or voluntary error has been committed. He deems this declaration due from him to those worthy and respectable citizens, in the face of this House and of this nation, willing as he is to abide upon it the deliberate judgment of aftertimes. He deems it the more imperiously required of him as a signal vindication of the honor and integrity of injured and persecuted men. It has been impossible for him to observe, without deep concern, the spirit and temper with which this investigation has been prosecuted, particularly with regard to the president of the bank. As one example of which, he would call the attention of the House to the testimony of Reuben M. Whitney—to the manner in which it was produced, and to the catastrophe in which it terminated.

On the 2d of April, the chairman of the committee asked of them authority to issue a subpoena to summon the attendance before them of Thomas Wilson, heretofore, in the year 1824, a cashier of the bank, to testify as a witness. The subscriber inquired what it was expected Mr. Wilson would prove; which question the chairman declined to answer. The subscriber objected therefore to the issuing of the subpoena, and the motion for it was, for that day, withdrawn.

The next day it was renewed, with a statement in writing, by the chairman, of several allegations, as the subscriber conceived, amounting to charges against the president of the bank of embezzlement of the moneys of the institution. The subscriber inquired from whom these charges had been received, which the chairman declined to state. The subscriber moved that a copy of the charges should be furnished to the president of the bank. But the paper was withdrawn by the chairman, and a resolution was substituted in its place, which was entered upon the journal of the committee. The objection of the subscriber to this course of proceeding was, at his request, entered upon the journal, and at the request of the chairman an entry was also made of the grounds

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the president, of taking money out of the first teller's drawer, leaving in its place certificates of stock; of keeping the money an indefinite number of days, and then replacing the money, and taking back his certificates of stock, without payment of interest upon the moneys of which he had the use. The quintessence of the charge was, the use by Mr. Thomas Biddle of the moneys of the bank without interest. And there was another charge, that the president had also been in the habit of making large discounts upon the notes of Thomas Biddle without consulting the directors, between the discount days, and that the notes were entered as of the previous discount day.

Mr. Wilson's testimony completely disproved, so far as his knowledge went, both these charges. He had never known a single instance in which Mr. Thomas Biddle, or any other person, had ever been permitted by the president of the bank to use the moneys of the bank without payment of interest. He had never known a discount of a note of Thomas Biddle by order of the president of the bank, without consulting the board of directors or the committee duly authorized to discount. Mr. Wilson had been removed in a manner as inoffensive to his feelings as possible, from his office of cashier of the parent bank in 1824, by being first transferred to the branch at New Orleans, from which he was also afterwards removed. Previous to his removal from the bank at Philadelphia, the personal intercourse between the president of the bank and him had not been altogether harmonious. He had hinted to Mr. Reuben M. Whitney, a director then secretly unfriendly to the president, and to Mr. Paul Beck, a director particularly friendly to himself, that he thought the president had too much influence over the board of directors, and had spoken with disapprobation of the fact that Mr. Thomas Biddle had occasionally received discounts upon transferred stocks, with checks, which, at the end of an indefinite number of days, were taken up and the cash returned, with regular payment of interest, as upon discounted notes—the checks being entered in the books under the head of bills receivable. Several cases of this kind occurred in the months of May and June, 1824. Mr. Wilson's testimony was very clear and explicit to the integrity of the president of the bank, and it was totally contradictory to the statements which the chairman had framed into charges from the private information which he had received, and the name of the informer of which he had declined giving to the committee. But Mr. Wilson had named Mr. Paul Beck and Mr. Reuben M. Whitney, two of the directors of the bank in 1824, and to whom he had incidentally communicated his slight discontents at the period immediately before his removal.

Mr. Beck and Mr. Whitney were summoned to appear and testify. The character and respectability of Mr. Beck are so universally known at Philadelphia, that all remark upon them would be superfluous. He had been a director of the bank in the years 1824, '25 and '26, and again in the years 1828, '29, and '30; and of course not only at the time alluded to by Mr. Wilson, but for five of the years which have elapsed since then, and till within less than two years past. Mr. Beck remembered the communications made to him by Mr. Wilson shortly before his removal, and had thought them to proceed from irritation.

He had seen no cause to doubt the correctness of the

in Canada from his own Government. About a year after the expiration of his service as a director of the bank, he failed in business. Of his present standing in community, no evidence was taken by the committee.

The story that Mr. Whitney told on his first examination was, that, some time in 1824, Mr. Wilson and Mr. Andrews, then cashiers of the bank, had mentioned to him certain transactions in the bank in which T. and J. G. Biddle were concerned, which they were not willing should exist without some member of the board being informed of them. Upon his inquiring what they were, they replied that T. and J. G. Biddle had been in the habit of coming to the bank and getting money, and leaving certificates of stock, which represented it in the first teller's drawer, without paying interest, and without being entered on the books. That they had also stated that the Messrs. Biddles had had notes discounted for them by the president, which were entered on the books of the preceding discount day: That upon Mr. Whitney's asking them what sums there were of this kind in existence at that time, they went with him to the first teller's drawer, and found one sum of 45,000 dollars, dated 25th May, and one for 24,000 dollars, dated 26th May; that they then went to the discount clerk's desk, and found one note at fifteen days, dated 13th May, for 20,000 dollars, of T. Biddle's, and one note of Charles Biddle's, dated 21st May, at sixteen days, for 38,319 dollars: that the two former sums represented cash, and the two latter were notes which the two cashiers stated to him had been discounted by order of the president. Of all this, Mr. Whitney declared a memorandum at the time had been taken by him. Such a memorandum he produced, and left with the committee on a small slip of paper, worn out and torn, and it is among the papers reported by the committee; and as it formed the main stay of Mr. Whitney's first testimony, a copy of the whole of it is here subjoined:

"May 25, 45,000.

" 26, 24,000.

May 13, 15 days \$20,000 collateral.

" 21, C. Biddle, 38,319, 16 days 5—8 June."

Of the two first notes, Mr. Whitney declared, in answer to a leading question from the chairman, that no entry had been made upon the books: that he took his note of them from a memorandum in the teller's drawer, and that, on making the discovery, he directed the officers of the bank, one or both the cashiers, to enter this money upon the books; that it was done—that he did not see it done, but subsequently saw on the books the entry of "bills receivable," which he knew was the entry made by his order.

He further stated that, immediately after making this discovery, and giving this order, he had gone into the president's room, where he found him alone; that he told him what he had discovered and done, and requested that no such transaction should be repeated while he was a director of the institution. That the president did not deny the facts as he had stated them—that he colored up very much, and promised that no such thing should happen again.

This testimony appeared to be in all respects so extraordinary, and so deeply to affect the moral character of the president of the bank, in which the subscriber had

he had had previous communication on the subject with any member of the committee? What had been his motive for giving the testimony? Whether it had been voluntary or solicited? To these questions he answered, that he had made previous communications to the chairman, at his apartment, in presence of another member of the committee; that he had no particular, but general motives for giving the testimony; that he did not recollect whether it had been voluntary or asked of him; but upon being pressed by a further question, he answered, that Judge Clayton had been recommended to him by a letter from Mr. Benton. This disclosure was then confirmed by the chairman.

The subscriber requested that his objections to the admission of this evidence, while anonymous, should be entered on the journals of the committee, and an explanatory entry was also made at the request of the chairman.

Mr. Whitney appealed with great confidence to his memorandum, and to the books of the bank corresponding with it, to confirm his story; but there was nothing in the memorandum to show that it had not been taken from the books of the bank. There was internal evidence in the memorandum that it could not have been taken before the 25th of May; and there was evidence on the books of the bank, that it was probably taken from them on the 27th of May—that was the only day on which one of the books of the bank corresponded with the memorandum of Mr. Whitney.

But Mr. Whitney testified that no entries had been made of the certificates of stock in the teller's drawer, of the two sums of 45,000 and 24,000 dollars, minuted on his memorandum, on the books, until after he had ordered the entries to be made; while the books of the bank proved that entries of both those sums had been regularly made on those respective days, the 25th and 26th of May. Mr. Whitney's own testimony showed that he had seen the books after the entries were made, and there was nothing, except his own declaration, to show that he had not taken his memorandum from them.

Mr. Andrews and Mr. Wilson, the two cashiers from whom Mr. Whitney alleged that he had received the first information of this embezzlement of the moneys of the bank, denied, in the most explicit and unqualified terms, that any such transaction had ever taken place—denied not only that they had ever given to Mr. Whitney such information as he had affirmed to have received from them, but the existence, at any time, of any facts which would have justified them in giving such information.

Mr. Burtis, the first teller, and Mr. Patterson, the discount clerk, at whose drawers Mr. Whitney's narrative represented him as having made his discoveries, and given his orders for making the entries, with equally earnest asseveration, denied that any such transaction had ever taken place, so far as they were concerned.

The president of the bank, confronted with Whitney, declared, upon oath, that there was not one word of truth in his statement of his interview with him. And Mr. Whitney was left with his ragged memorandum, and his oath, falsified by the concurring oaths of the five individuals, who, with certainty of knowledge, could contradict him.

statement that he had ordered the entries of the two sums of 45,000 and 24,000 dollars to be made upon the books, and placed the affirmance in an alternative position, to meet the evidence as it appeared in fact upon the books. He now said he had ordered the entries to be made, or had found them already made and confirmed them. But he never attempted to show the committee whence or how he, as a single director, had derived the authority of ordering the keepers of the respective books to make any entry upon the books whatever; an authority which all the keepers of the books denied to belong to a director.

The question was put to Mr. Whitney, whether, upon his making his discoveries, he had considered himself as having fully discharged his own duty, as a director, by a mere private expostulation with the president, without making known the transaction to the board of directors at all: to which he answered, that he had not considered the subject in that point of view.

Mr. Whitney, to sustain his character, produced evidence that he had been very extensively engaged in business; had paid large sums for duties on imported articles to the Government of the United States; that, while a director of the bank he had been a very active and industrious member of the board, and that he had been employed by the board in confidential trusts, which he had faithfully executed. As a last resort to sustain his charge of embezzlement against the president of the bank, although he admitted he had never mentioned it to the board of directors, he insisted that he had, soon after it happened, spoken freely of it to others, and particularly to Mr. Wilson Hunt, who he requested might be called, and who accordingly was called as a witness before the committee.

Had there remained a fragment of doubt upon the mind of the subscriber with regard to the character of the testimony of Mr. Whitney before the examination of Mr. Hunt, it would have vanished upon hearing what he testified. It was, that Mr. Whitney, some years since, at the time when he was a director of the bank, had confidentially shown him a memorandum of some loans on stocks which, he said, had been made to Mr. Thomas Biddle by the president, without the knowledge of the directors. Mr. Hunt thought that Mr. Whitney had further averred that these loans had not been entered on the books of the bank, but he did not recollect he had told him that he had ordered them to be entered on the books, and he was very sure he never had told him that the loans were without payment of interest. Mr. Hunt had been impressed with the idea, derived from Mr. Whitney's communications to him, that he was not friendly to the president of the bank; and he said he had thought them serious enough. But Mr. Hunt manifested astonishment at the very question, whether Whitney had told him that the loans were made without payment of interest. He not only denied that fact, but with a very natural asseveration, that if it had been so stated to him, it was impossible he should have forgotten it.

The subscriber, in charity to the infirmities of human nature, would willingly believe that the testimony of Mr. Whitney, upon his first examination, was the result of self-delusions produced by long-cherished and pampered

the books, would give a sort of mysterious pre-emption right of credibility to any colorable detail of circumstantial narrative to be connected with it. The instinct of calumny is inventive of details, precisely because details make their way most easily to the credit of the hearer; and it has long been remarked by keen observers of human action, that he who accustoms himself to make a truant of his memory, is oftentimes the first to credit his own lie. Whether it was so with Mr. Whitney, the subscriber cannot undertake to say with certainty; but certain it is that an affirmation most material, and most confidently made, in the first examination of Mr. Whitney, that the notes which he had discovered in the teller's drawer had not been entered on the books when he discovered them, and that they were so entered by his direction, was retracted by himself after it had been blasted by the production of the entries upon the face of the books themselves. Yet the retraction itself was not frank and candid. It was by assuming an alternative, which, while it abandoned all pretence of sustaining the fact, was yet unwilling to abandon the offensive imputation. When the impossibility of his pretended interview with the president, of rebuke on the part of Whitney, and of tacit confession and blushing promise of future amendment on the part of Mr. Biddle, was demonstrated by the president's absence from Philadelphia at the time, Mr. Whitney was not prepared with any substituted invention of details to supply its place. He admitted that there was a discrepancy between this demonstration and his previous asseverance, but he neither attempted to reconcile them, nor to fortify his own statement by explanation or commutation of its terms. His dishonored memorandum found no endorsement for the honor of the drawer.

Other charges of partiality by the president of the bank, in behalf of his distant relatives, Thomas Biddle & Co., had also been scattered abroad upon no better foundation than the fact that Thomas Biddle & Co., are, and have for years been among brokers of the first eminence and most extensive business at Philadelphia, or in the Union. That their transactions of business have been and are every year to the amount of many millions. That their deposits in bank have been to similar amount, and that they have occasionally been responsible to the bank for more than a million of dollars at once. Brokers of this description are, to all essential purposes, bankers themselves, as a bank in the plenitude of its power and operations is but a broker upon a large scale. Among the transactions of Messrs. Thomas Biddle & Co. with the Bank there was a deposit made by them to a considerable amount, upon which, by agreement, an allowance was once for a short time made to them for interest. It appeared, upon explanation, that the money thus deposited was in the possession of Thomas Biddle & Co. as agents of a certain foreign Government, and that the pressure on the money market was very great. That the use of the money for the time during which the interest was allowed, would have been of more value to them than that interest; and the bank having urgent occasion for the use of the money, the interest upon it for a few weeks was allowed, as a consideration for its being left in the bank for employment there, instead of being withdrawn for the use of the depositors. It was substantially a loan for a time,

the brokers, agents for the bank, restored the cash, took back their certificates of stock, and paid interest for the cash they had received, for every day during which it had been withdrawn.

This complicated character of the pecuniary operations between the house of Thomas Biddle & Co. as brokers, and the bank must also be remembered in considering the very large amount of their notes discounted at the bank. They might appear on the books of the bank indebted to it for the amount of a million, when their real debt might not amount to a thousand dollars—the money for which they appeared indebted being only the sums requisite to pay for the bills purchased for the bank itself.

In reviewing the whole investigation by the committee of the transactions between the Bank of the United States and the brokers, there is one consideration which most forcibly struck the mind of the subscriber, and which he thinks pre-eminently worthy of the consideration of Congress, and of the nation. The charge of favoritism to certain brokers, of connivance with them to speculate and prey upon the public interests for purposes of usury and extortion, formed a very prominent item in the original resolutions of the chairman of the committee upon which this investigation was instituted. It was one of those charges which, in its essential nature, imported, not simple inadvertence, indiscretion, error of judgment, or mismanagement in the president and directors of the bank, but the sordid speculations of a swindler. It was impossible that those charges should be true, if the president of the Bank of the United States was a man of common honesty.

There was no sparing of commentary upon the scanty coincidence of facts which the proposer of the resolution was willing to consider as giving sufficient color to the charge to entitle it to the honor of an inquiry. That there had been, and still were, large dealings between the brokers and the bank, was sufficiently notorious. That the bank and the brokers had competitors, rivals, and enemies, whose rancor was sharpened by all the stimulants of avarice and ambition, was not less apparent. These passions never fail to have watchful observers in their train. Whispers, it now appears, had been in circulation even from the year 1824, ripening for a term of seven years into rumors of combined and concerted frauds, and embezzlement of the funds of the bank to the private purposes of the president of the bank, and the principal brokers of Philadelphia. What was their foundation? Extensive dealings between the Bank and the brokers—of course, very large discounts to the brokers. Interest to the amount of a few hundred dollars once or twice allowed for the use of the money by the bank to the brokers. Cash taken out of the bank by the brokers for a few days upon deposit of stock left in its place. Enormous loans to the brokers, sometimes even at a rate of interest less than six per cent. a year. Superadded to all which, the name of the president of the bank was Biddle. The name of the supposed accomplice broker was Biddle, and they were descended from one great grandfather. To the suspicions of awakened jealousy here were abundant elements for the most nauseous compound of fraud and corruption. Secret communications are accordingly made to the proposer of the resolution for inquiry,

necessary auxiliary to the faithful discharge of a public trust, should itself be trusted with great reserve. A man, conscious himself of integrity of purpose, should not readily admit into his mind the belief that others are reckless and unprincipled. Above all, does he believe that a man of honest and candid mind, who has been induced by false representations to admit and to countenance imputations upon the honor of another, owes him, when disabused by the evidence of unquestionable testimony, the signal reparation of a candid acknowledgment of error. He never for a single instant believed that those dishonorable imputations upon the president of the bank were founded in truth; but when he found them embodied in the positive declarations of a witness upon oath, and fortified by a bold exhibition of a contemporaneous memorandum, and a confident appeal to the books of the bank, he scarcely dared to indulge the expectation that this desperate lunge against a citizen of unsullied honor could have met so immediate and so total a discomfiture.

The exploration of the accounts of members of Congress and officers of the Government with the bank, came, in the opinion of the subscriber, under the same category as those of editors of newspapers. The resolution of the House of Representatives authorized the examination by the committee of the books, only as evidences of the proceedings of the corporation.

The questions for the committee, were: Had they violated the charter? Had they violated any law of the land? To these inquiries they were limited, and upon these alone could they with propriety report.

As an exemplification of the odious nature of further inquisitions, the subscriber will only mention the case of the members of Congress who, during the present session, have received the compensation for their public service from the branch bank at Washington in advance of the passage of the general appropriation act. This is one of the favors to members of Congress, equivalent to a loan without interest to each member of the amount of money which he thus receives from the time of his receiving it until the appropriation act shall have become a law. Its aggregate amount from the commencement of the session to this day, in payments to members of Congress, and the executive officers, falls little short of four hundred thousand dollars. The amount of interest that would have accrued to the bank had interest been paid by each individual member, would have exceeded three thousand dollars. The subscriber himself is not without doubts of the propriety of this indulgence, and confidently avers that nothing which the investigation of the committee has discovered in the proceedings of the president and directors of the bank is of a more questionable character. The member who receives his pay in advance of the appropriation, does not indeed receive it in advance of the service which entitles him to it. But where is the law authorizing the bank to make the payment? The member who receives the money is only accessory to the payment by the bank, and there is many a member of this House, who, in voting for this investigation, little imagined that his own name would be returned among the members of Congress receivers of special favors from the bank. Many a member, who, perhaps, has received the favor without knowing it, yet is obnoxious in principle to the charge in

tion, which those individuals had not an equal right to exercise over the committee and every one of its members in return. What motive, for example, could impel a member of the committee to call in exercise all the power of Congress to suppress the publication of essays or speculations favorable to the bank in newspapers? Would not the editor of a newspaper thus inculpated have the same right to inquire into the motives of the committee-man? If, peradventure, he should have been in the habit of making free use of the press to assail and discredit the bank, would not this struggle to deprive the bank of self-defence through the medium of the press, be attributed to the desire of having the monopoly of that powerful engine to himself? Would it not argue a consciousness of weakness in the appeals to public opinion against the bank, if, to sustain the charges against it, there should be an attempt to suppress all the means of self-defence? The freedom of the press, in the language of party spirit, means the unlicensed use of that instrument for itself to assail, and a total interdiction of its use to the adversary for defence. And singular, indeed, would be the section of a charter to the bank which would leave it open to every shaft of slander, and deprive it of all possible means of repelling the assault.

Among the useless, and worse than useless, inquisitions into which the majority of the committee thought themselves justified in descending, were imputations of political misconduct in certain officers of the branch bank at Norfolk, in Virginia. Articles of complaint, as grievous and perhaps as numerous as those of the chairman of this committee against the president and directors at Philadelphia, had been laid before that board against the president and cashier at Norfolk by a person who had been one of the directors of that branch. A long and patient investigation of those charges had been made by the board at Philadelphia, and one of their cashiers had been sent to make a thorough examination of all the facts of the case upon the spot itself. The charges had been found totally destitute of foundation, and there was among the archives of the bank a voluminous correspondence, which was all submitted to the examination of the committee. To give the House a faint idea of the extent of this inquiry, it may be sufficient to say that the whole controversy respecting the accounts of a late navy agent at Norfolk, and the pamphleteering and newspaper war between that officer and one of the auditors of the treasury, were among the simplest of its elements. After plunging for a series of days into these mysteries, almost deep enough for every member of the committee to take his side upon two or three by-gone contested elections at Norfolk; after plodding over manuscript volumes of acrimonious bitterness from the most pertinacious of complaints; after examining the long protracted correspondence both of that complainant and of the inculpated officers of the Norfolk branch with the board at Philadelphia, and the cashier who had made the investigation at Norfolk; after giving the complainant himself the trouble of repairing to Philadelphia to sustain his charges, and try over again criminations and recriminations, which a judicial tribunal, after summoning half the inhabitants of the borough of Norfolk, and subjecting them to an endless list of interrogatories and cross-examinations, would scarcely have been competent to

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phia and the late Secretaries of the Treasury and of War, form a portion of the documents relating to the books and proceedings of the bank, called for by the committee, and communicated to them. They are not noticed in the report of the chairman, but, in the opinion of the subscriber, are more deserving of the attention of Congress, and of the nation, than any other part of the papers commented upon in the report. An effort, very thinly veiled on the part of two of the Executive Departments of the General Government, to exercise a control, political and pecuniary, over the proceedings of the bank and its branches—a control highly exceptionable in principle, and even contrary to law—appears to him to be fully disclosed in those papers. He will not permit himself to inquire into the motives of the agents in those transactions. It is sufficient for the protection of the public interest that the projected encroachments of power were disconcerted and laid aside.

Among the objects of investigation authorized by the majority of the committee, transcending, in the opinion of the subscriber, the powers delegated to them by the resolution of the House, and therefore unwarranted and improper, were six sets of interrogatories, amounting in all to one hundred and sixty-one questions, addressed by one member of the committee to the president of the bank, never submitted to the committee for their consideration, but drawn up, a large portion of them, after the committee had closed their examinations at Philadelphia, and after the subscriber had returned to Washington, and resumed his seat in the House. They reminded him of certain popular works of instruction for children, in which universal or particular histories, or abstruse and profound sciences, are taught by question and answer. The subscriber has found many of them, upon perusal, passing his powers of comprehension, but they appear to comprise a compendium of political economy, and the skeleton of a profound dissertation upon coins, currency, paper credit, circulation, and banking. The subscriber cannot withhold his admiration from the comprehensive views and profound knowledge of the subject discovered in those inquiries, and believes that satisfactory answers to them might form a very useful second, though somewhat larger volume, to the legislative and documentary history of the Bank of the United States, compiled by the indefatigable research and industry of the Clerk of the House of Representatives and his associate. But a large portion of the questions might, with more propriety, be addressed in a circular to the presidents of all the banks in the four quarters of the globe, than to the president of the Bank of the United States. And it may be doubted whether, of many of the inquiries, a convention of all the bankers in the world would not be reduced to the necessity of leaving them as they found them—to be solved only by the ingenuity or sagacity of their author. The subscriber objected to them as they were presented in clusters; not but that some of the questions might be within the compass of the powers and duties of the committee, but that they were buried in such a mass of heterogeneous matter, that it would have occupied the committee to the last moment of their happily limited time to extract the pertinent matter from its encasement. The subscriber believed it

remained in the possession of the chairman of the committee, to enable him to prepare his report, and the subscriber has not even seen a considerable portion of them. He will confine himself, therefore, to those which have been noticed in the report of the chairman and majority of the committee.

1. The charge of usury, as having been taken some ten years since by the branch bank at Lexington, as set forth in the case of the Corporation against Owens and others, reported in the second volume of Peters' Reports of cases argued and adjudged in the Supreme Court of the United States, was one of those upon which the chairman of the committee had largely expatiated in his speeches, at the time when he brought forward his resolution of investigation. No information varying the state of the facts as they were then explained, was obtained by the committee. It was then sufficiently shown, that in all the transactions of this case there had been neither usury, nor any thing resembling usury, on the part of the bank. That it was a case in which the bank had not done, but had suffered, grievous wrong. A transaction in which the subscriber has no hesitation in saying that, if the parties had been on both sides individuals, the plea upon which the defendants extricated themselves from the engagements which they had contracted, would have been in no wise creditable to them.

The bank had discounted a promissory note of Owens for five thousand dollars, upon which the other defendants were joint signers with him.

For this note Owens received the sum of five thousand dollars in notes of the bank of Kentucky, promising to pay the same sum in specie in three years from the date of the note. At that time the notes of the bank of Kentucky were depreciated, and purchasable in market at a discount of fifty-four per cent. Owens received them at their nominal value, and promised payment for them in specie three years after date. The notes had been received by the Lexington branch at their nominal value, and partly for Government deposits. To them they were equivalent to specie. Within six months after the transaction, they recovered their nominal value. Had the Lexington branch retained them, they would have been repaid at their full value, with lawful interest, till the time of payment. They never received one dollar of usurious interest upon them—never one dollar more than was actually paid to the holder of them by the bank of Kentucky, from which they had issued. The money was equivalent to specie to Owens himself, at the time when he received it, and he paid with it debts of his own at their nominal value.

But the branch at Lexington, in the case before the court, was, as many a suitor besides has been, made the victim of a special plea and demurrer. The plea set up by the defendants to escape the payment of an honest debt, set forth, not that the notes of the Kentucky bank were of less value than specie to the branch at Lexington, the loaner; not that they were of less value than specie to Owens, the borrower and receiver; not that, at the time when the note was made payable, they were of less value than specie even in the open market, but that, at the time when the note of Owens was discounted, the notes of the Kentucky bank were generally depreciated, so that one hundred dollars thereof, nomi-

ever a defendant shall be at liberty to take the general issue, and give all special matter in evidence under it. In this case, however, the general issue did not suit the purposes of the defendants. They could not aver that they had not made the promise to pay the money for which they were sued by the bank. They could not deny that the Kentucky bank notes had been to the borrower and to the lenders equivalent to so much silver. They could not deny that, long before the note became payable, the Kentucky bank notes had recovered their full value. Owens himself had not the face to join in the plea; but the joint signers of his note, finding it more convenient to charge the bank with usury than to fulfil their engagements, screened themselves from performance by this plea of general depreciation, and current value, and by averring in their special plea, contrary to the fact, that there had been a corrupt and unlawful agreement between the bank and themselves, that the bank should receive more than lawful interest upon the loan to Owens. It was no such thing. There had been no such corrupt agreement; but the bank, by demurring to the plea, deprived itself of the means of disproving that allegation, and, upon that state of things, the decision of the case, by a bare and doubting majority of the judges of the Supreme Court, was against the bank. With the utmost deference for the opinions of that court, the subscriber believes they never gave a judgment of less authority than in this identical case. The judges of the circuit court for the district of Kentucky had differed in opinion upon the case. The judgment of the Supreme Court was delivered by Judge Johnson, who declared himself to have entertained very serious doubts of the sufficiency of the averment in the plea. After stating those doubts, he adds, "I am content, however, to unite with the three of my brethren who make up the majority on this point, in holding the averments to be sufficient, because, in a considerable dearth of authorities on this subject, I find it decided in the case of *Bolton vs. Durham*, in *Croke's Reports*, Cro. Eliz. 642, that the confession of the *quo animo* implied in a demurrer will affect a case with usury, when a very similar case in the same book, in which the plaintiff had traversed the plea, was left to the jury with a favorable charge." *Benningfield vs. Ashley*, Cro. Eliz. 741. Here then Judge Johnson declares that after very serious doubts he was content to unite with his three brothers to make up a majority against the bank, because he found in an old reporter of the time of Queen Elizabeth, that the confession of the *quo animo*, (that is, of the alleged but fictitious corrupt agreement,) implied in a demurrer, made that usury, which, by the authority of the very same book, would not have been usury if the plaintiff had traversed the plea, that is, had denied and tendered in issue the pretended corrupt agreement. If, then, the branch at Lexington, instead of demurring, had traversed the plea of the defendants, that is, if they had denied the existence of the corrupt agreement averred by the defendant, but which had never existed, the Supreme Court would have decided that there was no usury in the case, and the defendants would have been compelled to perform their lawful engagement instead of evading it by stigmatizing themselves with corruption.

The subscriber will pursue no further this analysis of the decision of a majority of the judges of the Supreme

In one of the precedents cited by Judge Johnson, the court is said to have observed, "there is nothing immoral in this transaction, but it is against a prohibitory statute." This remark is not wholly applicable to the case of the Bank of the United States against Owens and others. Of that transaction it could not be said there was nothing in it immoral. There was something in it profoundly immoral, though not on the part of the bank. Even the violation of the prohibitory statute was an inference against the fact, from the confession implied in a demurrer. The bank was first debarred from the recovery of a just debt, and then branded with usury upon the plea of general depreciation and current value of the notes of the bank of Kentucky, when, in fact, there was not a cent of usury taken, or even reserved.

The subscriber, however, cannot suppress his surprise that this case should have been selected, and should now be persisted in, as the head and front of the offences of the Bank of the United States. Not alone because, upon a thorough examination of the facts, as they appear upon the face of the report, it is the settled conviction of his mind that, throughout the whole of this transaction the bank was the innocent and deeply injured party—not alone because he deems it would be the summit of injustice to hold the Bank of the United States responsible in its charter for an unlucky demurrer pleaded seven years ago in a suit brought by the branch at Lexington against delinquent debtors, but because, setting aside all those considerations, and supposing even the president and directors of the parent bank culpable of all the mistakes in pleading of the branch at Lexington, this transaction is of ten years' standing. If usury there were, it was the usury, not of Nicholas Biddle and the directors of 1832, but of Langdon Cheves, and the directors of 1822. The contract was made in May of that year. From the endorsement upon the note, then made by an illustrious citizen of Kentucky, and one of the most distinguished lawyers of the Union; (Mr. Clay,) it is clear that there was nothing, in his opinion, in the transaction, which could expose it to the charge of usury. The subscriber sees nothing in it of that nature now. It was undoubtedly considered in the same light by the then president of the bank, Mr. Cheves, to whose opinions, upon other points regarding the administration of the affairs of the bank, so much deference is shown in the report of the majority of the committee; that the subscriber thinks he might well have been spared this imputation of being accessory to a usurious contract of the branch at Lexington, and of having permitted it to be consummated without censure or animadversion.

The next charge upon which the majority of the committee have deemed it within their competency to report, is that relating to the issuing of the branch drafts or notes. Upon this subject, there was nothing of any moment for the investigation of the committee to discover. Their existence, the causes in which they originated, and the purposes which they were intended to answer, had all been disclosed upon returns already made by the president of the bank to inquiries instituted by this and the other House of Congress. They had been issued, not hastily, but after deliberate advisement with regard to their legality, sanctioned by the written opinions of three of the most eminent counsel, learned in the law, in the

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was ever denied by Congress after deliberation. In one instance, at least, there was a report of a select committee of the House of Representatives, in favor of the appointment of signers to the notes of the bank; but the spirit which, in the halls of legislative power, so often defeats by procrastination that which it cannot reasonably reject, had always succeeded in arresting the action of Congress upon this proposal. But the power which was adequate to withhold the means of furnishing, in this form, uniform currency for circulation, could neither supply its place, nor suppress the constantly recurring want of it, in the intercourse of business between the different parts of the country. The solicited power was never denied, but it was never granted; and the omission to grant it had the effect of denial. The want of circulating currency, equivalent to specie, continued with increasing pressure upon the people, and especially at the locations of the Southern and Western branches of the bank. An expedient was at last resorted to, which, without transcending the limits of the charter, effected the same purposes which would have been accomplished by notes payable at the branches, under the signature of their presidents and cashiers. It was, that they should be authorized by the directors of the parent bank to draw notes or drafts upon the bank, payable only there. That this expedient was warranted by law, has been settled by solemn decision in the circuit court of the United States. It had previously received the sanction of the Secretary of the Treasury. An obvious remark upon it is, that its success depended upon the extensiveness and universality of the credit of the bank. The drafts, though payable only at the bank in Philadelphia, circulated as specie in every part of the country. But for that credit they could not have circulated at all, or only as depreciated currency. They have answered an exceedingly useful purpose, and proved a great public convenience in the transaction of business, and the circulation of exchanges throughout the Union. Under management always prudent and cautious, no serious inconvenience would be anticipated from them. But it is not to be disguised that they offer facilities and temptations for improvident and excessive issues. The bill reported by the Committee of Ways and Means, for rechartering the Bank of the United States, proposes to prohibit the issuing of these branch drafts, but to authorize the presidents and cashiers of the branches to sign bills payable at their respective offices only. The want of a circulating currency will not be so effectually supplied by this process, as by that now in use; but it will be more invariably safe to the bank itself. It is understood to be more acceptable to the president and directors, and the subscriber is willing that it should be substituted for the practice now established, from which, however, he perceives not that any serious public injury has yet resulted. That it is justifiable under the charter, he has no doubt.

The next charge adopted by the majority of the committee, from the bill of indictment of the chairman, is, that the president and directors of the bank have been guilty of the crime of receiving and paying Spanish dollars, and even our own gold coins, at their intrinsic value, which is higher than that conferred upon them by statute. The objection is, that these are not technically called bullion; and there seems to be an argument in the report

of all human legislation. Nothing is more clearly established by the universal experience of mankind, than the impotence of despotism itself to control the value of the precious metals. Every attempt to exercise such authority bears upon its face the stamp of injustice. Charles XII. of Sweden, once transmitted a message to the Senate of the kingdom, that he would send to govern them one of his boots. The same monarch successively issued eight or ten copper counters, each of about the weight of half a cent, and decreed that they should pass for Swedish silver dollars. His own creditors were compelled to receive them; but to pass them off upon others, at the same rate, was beyond his power. With two metallic legal tenders of different intrinsic value, the bank, like every other corporation or individual, has the option, and always will make the option, to pay in the tender of lowest value. Their debtors, having the same option, will as universally pay the corporation in the same tender of lowest value. To forbid the bank from receiving foreign silver or domestic gold coins at an advance, would be to expel them, unless as special deposits, forever from their vaults. To forbid the bank from paying them at an advance, would be prohibition ever to issue them at all. They are commodities in the market, which will be bought and sold by all the brokers and State banks in the Union, whether bought and sold by the Bank of the United States or not. The participation of that bank in the traffic, far from tending to disturb the legal value of the coin, and render that portion of the metallic currency uncertain and fluctuating, has a tendency directly the reverse. To prohibit the bank from making an allowance of advance upon Spanish dollars, would be a prohibition to import specie, consisting of that coin, at all. Then, either it would be imported, to the same extent, by other institutions and individual traders, or there would be a deficiency in the supply of specie. In the former case, the fluctuation in the value of that kind of specie would be neither more nor less than it is; and, in the latter, it would be much greater.

The fourth charge reported by the majority of the committee, is that of selling "stock obtained from Government under special acts of Congress."

In this, as in many other parts of the report, the subscriber has had occasion to regret the want of precision in the statement of the charge. Here almost every word in which the charge is conveyed is remarkable for its looseness and indefiniteness of meaning. Who, for example, under the denomination of "stock obtained from Government," would naturally understand the evidences of a loan made to the Government by the bank itself? In the contract of loan, there must be a debtor and creditor, neither of whom can with propriety be said to obtain any thing from the other. In the use of ambiguous language, there is always danger of ambiguity of conception. In this case, if the bank obtained stock from the Government, it was because the Government obtained money from the bank. The loans could not have been made without special authority by act of Congress, and that authority was expressly given. The bank is prohibited from purchasing any public debt whatsoever, but it is not prohibited from selling any certificate of public debt, which it may lawfully possess. With regard to the loans to

rized loans by the bank to the Government, it is obvious that such a clause would be precisely equivalent to a provision that the bank should never loan to the Government at all: for it is clear that Congress could lay no other competitor with the bank for the loan under the same restriction; nor could the bank, under such a restriction, ever enter into competition with other proposers for the loan not so restricted. Among the great public benefits of a national bank, with a capital proportioned to the extent of its operations, the subscriber considers this very facility furnished to the Government of contracting loans upon moderate terms, as the exigencies of the public interest may require, holds a conspicuous rank. He believes those very loans to which the majority report refers, to be signal examples of the benefit of the bank to the nation. He is well assured, that if, at the time when those loans were contracted, there had been no national bank, the loans must have been made upon terms much more burdensome to the borrowers, while the public treasury would have lost all the profit of the participation in the loan to the nation as stockholders of one-fifth of the capital of the bank.

The fifth and sixth subjects of charges, considered by the majority report as amounting to violations of the charter, come within the purview of one and the same principle. They consist of expenditures made by authority of the president and directors of the bank for the purpose of improving and of adding value to the real estate, of which, in the course of their business, they have become lawfully possessed. There are two donations of \$1,500 each to turnpike road companies—some appropriations for canal basins—for building of six warehouses, and perhaps some other houses. There appears to be in the principle of these charges something of an instinctive aversion to internal improvements—a sentiment with which the subscriber must disclaim all sympathy whatever. The majority report presents the donations to the two turnpike road companies as offences highly aggravated by the circumstance that the General Government had declined making appropriations for similar objects—which declining for similar objects becomes, in the very next sentence of the report, a direct refusal of the Government to expend its revenues on the very same objects.

But this assertion, in either of its forms, is liable to much controversy, and must be received with much qualification. It is admitted, in a note to the report, to be possible that the improvements were in the neighborhood of the real estate of the bank, and upon the ground that such donations would increase the value of that real estate; and this possibility the majority would have found to be positive fact, if they had thought proper to ask for an explanation of it before passing censure upon the transaction.

The assertion is therefore altogether gratuitous, that the Government had declined to make appropriations for similar objects. The Government has made many and very large appropriations for the construction of roads, because they would give additional value to the public lands through or near which the road was to pass. It was the main argument upon which the first very expensive work of internal improvement, the Cumberland road, was undertaken. It has silenced many a stubborn objection,

property of the stockholders. For such expenditures, the board of directors at Philadelphia could have no imaginable motive other than that of promoting the interest of their stockholders, and making their funds more available. With regard to the building of houses, the majority report quotes the restriction in the charter upon the holding of real estate by the bank. The corporation is permitted to hold lands, tenements, and hereditaments, *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments obtained for such debts. It is not alleged that the bank holds one acre more of land than is thus allowed by law. But the majority report seems to consider the restriction as affecting not only the quantity of lands which they might hold, but the right of improving that which was their own—the common proprietary right. If there had been any manifestation of a desire on the part of the corporation to increase the quantity of their lands, tenements, and hereditaments, permanently held, the subscriber would have been among the first to censure their design, and the readiest to restrain them from the indulgence of such a desire by law. But almost all these lands were held in one place—Cincinnati, in the State of Ohio. They had, according to the declaration of the president of the bank, come into their possession strongly against their own inclinations. He stated, and it appears to be perfectly natural, that all the lands which came into their hands were considered by them as incumbrances; that their design was to dispose of them as speedily as they possibly could. That for this purpose they had erected a small number of houses, to make both the land on which they stood, and the adjoining lands, more easily and more freely saleable. The buildings were also erected, partly by contributions, in labor and materials, by debtors to the bank, who had no other means of payment. The advantage of all this was principally to the stockholders of the bank; and the subscriber believes that the solicitude for their interests, so warmly manifested in the majority report, when denying the right of the president and directors to spend their money in donations and gratuities, will find no responsive voice amongst the stockholders themselves. It was indeed the unfortunate condition of those to whom the management of the affairs of the corporation was entrusted, that whatever they have done, must be made a subject of censure. If they increase their business and their profits by branch drafts upon the bank, it is a heinous offence, because Congress had neglected to give a power to sign the bank bills to any other officers than the president and cashier. If they increase the value of their real estate, by contributing to a turnpike road, it is wasting the property of the stockholders in gratuities and donations. If they enlarge their discounts and accommodations, they supply temptations to over-trading, and bring the bank to the verge of ruin. If they contract their issues, they produce unheard of distress in the trading community. Do they trade in foreign silver and domestic gold coins, they are accessory to the pernicious exportation of the precious metals. Do they substitute bills of exchange for silver dollars in the exportation to China, who does not see that they must send to London the coin which formerly went round the Cape of Good Hope? And, besides the

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bear upon the bank, upon the credit of a confession implied in a demurrer, the occasion to stigmatize the bank cannot be passed over, though ten long years have slumbered over the sin, and though Langdon Cheves himself must be branded as the usurer.

The subscriber will no longer tax the time and patience of the House by pursuing into their microscopic details a series of inculpations and criminations, not one of which, in his deliberate opinion, has a shadow of reasonable foundation. How could he consider otherwise than a waste of time a prying scrutiny into the question—who of the stockholders have usually voted at the election of the directors? Who were the voters present? And who held the proxies of the absent? When it is notorious that in this, as in all similar institutions, whose stockholders have confidence in their presiding officer, the great difficulty is to prevail upon the stockholders to attend and vote at the elections at all. How could he consider as a grievance to be probed to the quick, and reported upon to the House, that whereas the charter provides that there shall be twenty-five directors, there are at this very hour only twenty-four, because the stockholders at their annual meeting did elect Nicholas Biddle one of their directors, and the President of the United States did nominate, and, by and with the advice of the Senate, did appoint the same Nicholas Biddle one of the five directors on the part of the Government. Such has for several years been the fact, and the conclusion naturally and justly to be drawn from it is, that Mr. Biddle has enjoyed the unquestioning and entire confidence, both of the Government and of the individual stockholders. The reason of the double election has been this: the president of the bank is elected by the directors on the first Monday of January, and none but a director is eligible to the office of president. The nomination of Government directors sometimes lingers in the Senate until after the first Monday of January. The stockholders, therefore, elect Mr. Biddle as one of their directors, that he may with certainty be re-eligible as president. When the nomination of Mr. Biddle, as a Government director, has been completed in time to be known to the stockholders at their election, they have not chosen him; when it has not, he has been appointed and elected. And thus there are only twenty-four instead of twenty-five directors. In all former years, however, Mr. Biddle has declined accepting the appointment as a Government director, and his place has been supplied. So that, until the present year, the board of directors has been full. The effect of his not declining the appointment from Government the present year is, that he is removable from office at the pleasure of the President of the United States.

Ten years long has this confidence been enjoyed and justified by that distinguished citizen and honorable man. No question had ever been insidiously started, how many proxies he held. The more he held, the more extensive was the confidence of the stockholders in him. No scruple had ever crossed the mind of any President of the United States, to deter him from nominating him year after year as a Government director. Not a voice had ever been raised in the Senate to cause their hesitation to confirm his appointment, and so perfectly in harmony with this confidence has been that of the public, that not a rumor has ever been raised of a

mingled with that courtesy which arrays even authority itself in the ornaments of a meek and quiet spirit—to the continual contestation even of facts stated by the president of the bank upon oath—to expressions so divested of all semblance of delicacy as these, that “the bank, as it collects the revenue, knows, or ought to know, that it will be called upon by the Government to reimburse it.” The subscriber forbears, for he finds it difficult to express his sensations without using terms obnoxious to the same criticism which he is compelled to apply to these.

A large portion of the same report, and that with which it closes, consists of an elaborate argumentative parallel between the condition of the bank in 1819, when it is stated to have been upon the verge of bankruptcy, and its present condition. Without entering into the particulars of this disquisition, the subscriber will close this his own report with a few general remarks concerning it.

And, in the first place, he observes that the bank cannot, with any propriety, be said to have been upon the verge of bankruptcy in 1819. It did not suspend specie payments for an hour; it had met with heavy losses; its capital had not been punctually paid in, conformably to its charter. Imprudent and irregular, if not fraudulent, speculations in its stock had been allowed and shared by one or more of its directors. It had failed in the indiscreet attempts to make all its bills payable at all its branches. Had a severe pressure come upon it, a short interval might have ensued, during which it might have suspended cash payments, and that would greatly, perhaps permanently, have affected its credit. But the bank was never near the verge of bankruptcy. The majority report itself states that, in April, 1819, when its difficulties were the greatest, its means of specie, notes of other banks, and funded debt, amounted to upwards of ten millions of dollars, while the whole demands which could come against it in the same month amounted to only about fourteen millions. There is nothing like an approach to bankruptcy in this. But the pressure on the bank in 1819 did not proceed from the errors or imprudences of the corporation itself only. There is an ebbing and flowing of the tides of commerce almost, though irregularly, periodical throughout the world, and there is a sort of galvanic sympathy in the contractions and expansions of the great moneyed institutions in both hemispheres. The restoration of specie payments by the Bank of England in 1817 and 1818, undoubtedly produced an immense pressure upon the circulation, and, of course, upon the commerce of the world. All paper circulation beyond the amount representing the precious metals is fictitious capital, or rather it is credit. The question whether the balance of moral influence upon the condition of men, arising from circulating credit and banking, be a blessing or a curse, is a speculation for the closet. Money has long, and upon divine authority, been pronounced the “root of all evil,” and paper money shares in its full proportion the character of its prototype. Power for good, is power for evil, even in the hands of Omnipotence. Had there been, in 1819, no Bank of the United States, the pressure must have been incomparably greater, and the ruin far more widely spread, than it was. The opinions exhibited in this portion of the majority report are

of the bank stock at the time when this inquisition into the affairs of the bank was instituted, was at an advance of at least twenty-five per cent. upon its nominal value. In spite of all the denunciation against it; in spite of all the learned arguments, all the arithmetical calculations, all the statistical theorems, corollaries, and demonstrations, with which it had been for years assailed in and out of Congress, the price current of bank stock, the thermometer of public confidence, was still at twenty-five per cent. advance upon the shares. If the majority of the committee had really made the discovery that the affairs of this bank were in such a desperate state, from the extraordinary pressure upon the money market and the depression of trade, considering the large stake which the nation holds in the stock of the bank, it would have been but prudent forecast in the majority of the committee, and would have manifested a tender regard for the public interest, to have reserved the exposure of this crisis of terror and dismay until it should have exploded or passed away. In such emergencies, the most formidable of all dangers to banking institutions is the spreading of a panic among its creditors. The issues and circulation of the bank paper are undoubtedly large, and there has been for some months a severe pressure, though not a universal one on the money market. The president and directors of the bank became aware of this pressure on its first approach, and took measures of precaution as early as October last to prepare for meeting it, and breaking its force. On the 7th of that month a circular was issued to the cashiers of all the branches, noticing the pressure which was to be expected, particularly upon the offices at Philadelphia and New York; instructing them so to shape their business as to furnish them, so far as might be practicable, with the means which were likely to be required. At that time the Government had given notice of a payment of six millions of funded debt to be paid on the 1st of January then next. But it had gone further, and authorized the creditors thus to be paid off in January, to claim their payments even at any time of the preceding quarter, although the Government had in deposit scarcely half the sum required for that anticipated payment. The bank made no complaint, but took its measure of precaution. The same vigilant and restrictive policy was pursued through the winter and spring, except when modified by the dispensations of Providence in the overflowing of the Ohio at Cincinnati and at Louisville.

At these places the credits of the bank had been very large; yet, immediately upon being informed of this visitation of calamity, every facility was again extended by direction of the president and directors at Philadelphia, to those who had suffered by the floods. Shortly after, the Secretary of the Treasury makes a confidential intimation of a wish to pay off six millions of three per cent. stocks on the 1st of July next. To ease the pressure upon the commerce of New York, and to save the bank from the necessity of curtailing the discounts of the merchants' debts to Government for duties, the president proceeds to Washington, and, in a conference with the Secretary of the Treasury, suggests the expediency of postponing until the 1st of October the payment of the six millions of three per cent. stock. The Secretary accedes to the arrangement, the bank

flecting upon it with all the anxious intensity of which it is capable, to a directly opposite conclusion. That there was overtrading to considerable extent in the course of the last two years, he has no doubt. That the issues of bank credit and circulation, unusually large, partly furnished the means to this over energy of enterprise, he is not prepared to deny. That, in the earnest and proper anxiety to reinvest in productive funds the mass of capital thrown back upon their hands by the payment of the seven millions of the Government's debt for the stock of the nation in the bank, the president and directors may have for a moment overstepped the line where that prudence which includes all the attributes of the Divinity, might have stopped, is possible. The subscriber is far from affirming that they did. If they did, he is sure that it was from motives pure as rectitude itself, and from infirmities of judgment incident to all the labors of man.

The president of the bank very forcibly stated to the committee the extremely delicate position in which the institution stands towards the commercial community in this respect. So long as the bank keeps within the line of safe operations upon its own funds, it leaves those of commerce to regulate themselves. It neither seeks to increase nor diminish them. When, from whatever cause, there is among the merchants a tendency to over-trading, it is not the province of the bank, directly, to interpose against it; for that would be to exercise an invidious and improper control over business with which it has but a remote concern. Its general duty is to grant facilities while it has disposable funds uninvested. The point at which it ought to stay its hand, is a matter of difficulty to determine, and upon which the soundest discretion may come to different results in different men. From the first appearance of the impending pressure, the measures of the president and directors of the bank appear to the subscriber to have been marked with great judgment, and to have been continued and modified, according to the progress of events, with equal steadiness of purpose and benevolence of intention.

But, whether the corporation issues its circulation with liberality, or curtails it with provident caution, it equally meets the censure of the majority report. After quoting two passages from a report of Mr. Rush, commending the bank for its prudence in limiting the amount of its circulation, it gives two statements, showing that, between August, 1828, and the 1st of April last, the circulation had been augmented to what it calls the astonishing increase of upwards of ten millions in less than four years. But it omits all notice of two facts, which, if duly considered, would have taken off all the edge of astonishment. The first is, that, during that same interval, the seven millions of stock, held by the Government, were repaid. The second, that upwards of three millions of the public debt, held by the bank, were paid off: so that the astonishing increase of circulation is a mere reinvestment of capital, which had been returned upon the hands of the bank, and only the substitution of one species of productive property for another. And scarcely has the sentence of censure been expressed in the report, but it turns and complains, and appeals to the circular addressed to the branches, and correspondence with them since October

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In the anticipation that there will be a curtailment of discounts for several months to come, the foresight of the majority report is probably correct. This, of course, must occasionally happen in all banking establishments. It is incidental to all the unavoidable fluctuations of trade, and is believed to be at this time indispensable, not only to the bank, but to the whole commercial community. This operation has, indeed, been quietly proceeding in the Bank of the United States ever since the circular of 7th October, 1831, which the majority report turns to so large account for its purposes. It has been in progress, while, at the same time, the direction of the bank has been reserving and husbanding and prudently applying the means to the commercial portion of our fellow-citizens, of meeting and passing through this critical emergency, with as little detriment to the public and to individuals as possible. This would explain, one would think, very satisfactorily, the fact stated in the letter of the president of the bank to the Secretary of the Treasury, of the 29th of March last, that, in compliance with an intimation from the collector at New York, an extension of loans had been promptly acceded to, in the preceding month of February, to assist the mercantile debtors of the Government in the punctual payment of their bonds; without needing an argument such as that of the majority report against this plain and direct assertion of a very notorious and unquestionable fact. The author of the report finds, by reference to the weekly statement of the office at New York, from July, 1831, to April, 1832, no aggregate increase of loans; but, on the contrary, a reduction of the amount. He finds that the total amount of discounts at the New York branch, between the 4th of October, 1831, and the 28th of March, 1832, was actually diminished four hundred and sixty-eight thousand four hundred and forty-seven dollars and seventeen cents, while, during same time, the bonds paid at that port amounted to between nine and ten millions of dollars. Can it be imagined that he discovers in this statement, compared with that in the letter from the president of the bank, to which he refers, not an unanswerable demonstration of the prudence as well as of the liberality with which the affairs of the bank have, in this respect, been conducted, but an occasion of contesting, by unavoidable implication, the veracity of the president of the bank? and this in a report which, upon an immediately preceding page, charges the bank with "the loss of five millions of its specie."

On the first perusal of the report, the subscriber was himself greatly at a loss to know what was meant by this "loss of five millions of its specie," of which he was very sure that no evidence had been given to the committee; and it was only after a repeated examination of the paragraph in comparison with another part of the report, that he found this form of expression was only an ingenious mode of accusing the bank of a loss of five millions of specie between the 1st of September and the 1st of April, because there was nearly that amount more of specie in the funds of the bank at the former period than the latter. This construction, by which payment of debts is converted into loss of specie, may serve as a consolation for the disappointment arising from the inability to convict the bank of any other serious loss since 1819.

With regard to the increase of the number of the

the labors of the committee upon them were abridged by the march of time, and of his hope that no committee of Congress will ever again be called to an investigation upon a plan of such interminable outline. He is convinced, that to fill it up according to the comprehensiveness of its conception, and the multifarious complication of its details, a committee appointed at this time, which should sit the year round, and he might safely add, night and day, would, at the expiration of the charter of the present bank, be left, like the present committee, with a multitude of subjects of complaint, which they would be "compelled to abandon for the want of time."

With regard to the numerous matters of vital importance in the reorganization of the bank, specie payments, domestic and foreign exchanges, investments in public debt by the bank in 1824 and 1825, and its ability to make loans to the Government, the influence of the operations of the bank upon trade, on the increase of the paper circulation of the bank, its agency in diminishing or enlarging the circulation of local banks, and the means of permanently regulating our general circulation so as to prevent its injurious effects upon the trade and currency of the country, concerning which the committee, or rather one of its members, submitted a number of inquiries to the president of the bank; a copy of the answers of the president of the bank to these inquiries has already been submitted to the House. It is hoped they will be satisfactory to the House, and that they will contribute with other considerations to the conclusion that the Bank of the United States ought, with such modifications as may be deemed expedient by the Legislature, to be immediately rechartered.

The subscriber has long entertained the opinion that the existence of a national bank is indissolubly connected with the continuance of our National Union. The fiscal operations of the Government in all its branches, he believes, cannot, without the aid of such an institution, be conducted, he will not say well, but at all. He does not say that the present bank of the United States is indispensable; and his mind has sometimes hesitated upon the question, whether, at the expiration of the present charter of the bank, the establishment of another, though similar institution, might not be more expedient than the renewal of the charter. Inclining rather to the latter of these measures before the institution of this inquiry, he has been very strongly confirmed in that opinion by the result of the investigation in which he has shared.

The management of the affairs of the corporation during the administration of the present president, not exempt from human error and infirmity, has yet appeared to him marked with all the characters of sound judgment, of liberal spirit, of benevolent feeling, and of irreproachable integrity. A large proportion of its officers in subordinate trust are of the Society of Friends; a class of citizens peculiarly qualified for the performance of duties, and the exercise of qualities appropriate to the successful management of moneyed establishments—industry, punctuality, temperance, and a conscientious discharge of all moral obligations.

In considering the numerous and important public services, and the large contributions of the present bank to the Government and people of the United States, he thinks the least return which they are justly authorized to

fifth part of the stock from the commencement of the institution to this time, without payment of one dollar to its capital, until the last two years. It has received the dividends in common with the other stockholders; has exercised the exclusive right of appointing one-fifth of the directors; has been supplied with loans whenever the occasions of the Government have needed them, upon terms more advantageous to the public than could have been secured from any other institution or company of individuals: while the bank, by its salutary control, and its universally extended credit, has compelled the restoration of cash payments, and furnished a currency equivalent, in substantial value, to specie, throughout the Union. These have been the advantages of the bank to the nation, while the individual stockholders have realized, upon their invested capitals, scarcely more than a yearly interest of six per cent., even including the advance of the stock at this time in the market. This circumstance has afforded proof, nothing short of demonstration, of the rashness and folly of all those projects for the establishment of a new bank, which have been presented to Congress, with a lure of enormous premiums for the grant of a charter. The subscriber has no doubt that the destruction of such an establishment would be speedy and inevitable, either by the absorption of all its profits to pay the premium, or, by forcing its direction into a wild and reckless extent of business, ruinous to the commerce of the country, not less than to the bank itself.

In considering the expediency of renewing the charter, the subscriber discards all considerations of the interests or wishes, not only of the president and directors of the bank, but of all the individual stockholders of the corporation. In the question between chartering a new corporation, and rechartering the old one, if the interests of the individual adventurers are to be considered at all, like opposite quantities in algebra, they annul each other. It is the public interest alone that can determine the question, and in that view alone the subscriber would prefer the renewal of this institution to the establishment of another. The present establishment has the advantage of long experience, and of a system matured by the acquired knowledge of many years, and by the correction of its own errors. That knowledge has been purchased at no inconsiderable cost, and a set of new undertakers would most probably have to pass through a similar noviciate. The result of his examination has been an entire conviction that, with a view to the public interest alone, the charter of the Bank of the United States ought forthwith to be renewed.

In the free and unreserved animadversion upon the course of proceedings pursued in this investigation by the majority of the committee, and upon the consequences to which they necessarily led, which he has felt it his duty to indulge, he trusts it will not be understood as his intention to speak in censure of any individual member of the committee. He imputes no injustice of intention to any one, even where he sees it most flagrant in the result of measures. If, in the examination of the books and proceedings of the bank, a penetrating and severe scrutiny into the official conduct of the president and directors of that institution was within the scope of the labors of the committee, and he has no doubt it was, he was equally clear

ral construction of their powers. Differing from them in their definition of liberality, he has seen no cause to question the liberality of disposition of any one of them, according to their sense of the term. He does all possible justice to their intentions, though often and essentially dissenting from their reasoning, and from their philology. Liberality, in his vocabulary, is a word of very different import, and as unintelligible to them, as in theirs it is to him. From this remark, he deems it a tribute of candor to except the member of the committee who constituted the majority, and the generosity of whose nature licensed the report made by the chairman of the committee to the House. That same generosity of his nature impelled him, when the report was presented, to rise in his place, and declare that, in the whole course of his investigation, he had seen in the conduct of the president and directors of the bank nothing inconsistent with the purest honor and integrity. Had that same candid and explicit declaration, due, as the subscriber believes, to the most rigorous justice, been made by other members who sanctioned the majority report, many a painful remark in the paper now submitted, perhaps the whole paper itself, would have been suppressed. But to vindicate the honor of injured worth, is, in his opinion, among the first of moral obligations; and, in concluding these observations, he would say to every individual of the House, and to every fellow-citizen of the nation, inquisitive of the cause of any over-anxious sensibility to imputations upon the good name of other men which they may here find—

"When truth and virtue an affront endures,
The offence is mine, my friend, and should be yours."

JOHN QUINCY ADAMS.

MAY 14, 1832.

"I concur fully in all the statements made and principles developed in the above report.

"J. G. WATMOUGH."

Message from the President of the United States, returning the bank bill to the Senate, with his objections.

TO THE SENATE:

The bill "to modify and continue" the act entitled "An act to incorporate the subscribers to the Bank of the United States," was presented to me on the 4th of July instant. Having considered it with that solemn regard to the principles of the constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

A Bank of the United States is, in many respects, convenient for the Government, and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the constitution, subversive of the rights of the States, and dangerous to the liberties of the people, I felt it my duty, at an early period of my administration, to call the attention of Congress to the practicability of organizing an institution combining all its advantages, and obviating these objections. I sincerely regret that, in the act before me, I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible

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the value of the stock far above its par value, operated as a gratuity of many millions to the stockholders.

An apology may be found for the failure to guard against this result, in the consideration that the effect of the original act of incorporation could not be certainly foreseen at the time of its passage. The act before me proposes another gratuity to the holders of the same stock, and in many cases to the same men, of at least seven millions more. This donation finds no apology in any uncertainty as to the effect of the act. On all hands, it is conceded that its passage will increase, at least twenty or thirty per cent. more, the market price of the stock, subject to the payment of the annuity of \$200,000 per year, secured by the act; thus adding, in a moment, one-fourth to its par value. It is not our own citizens only who are to receive the bounty of our Government. More than eight millions of the stock of this bank are held by foreigners. By this act the American republic proposes virtually to make them a present of some millions of dollars. For these gratuities to foreigners, and to some of our opulent citizens, the act secures no equivalent whatever. They are the certain gains of the present stockholders, under the operations of this act; after making full allowance for the payment of the bonus.

Every monopoly, and all exclusive privileges, are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank, must come directly or indirectly out of the earnings of the American people. It is due to them, therefore, if their Government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of fifty per cent., and command, in market, at least forty-two millions of dollars, subject to the payment of the present loans. The present value of the monopoly, therefore, is seventeen millions of dollars, and this the act proposes to sell for three millions, payable in fifteen annual instalments of \$200,000 each.

It is not conceivable how the present stockholders can have any claim to the special favor of the Government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the Government sell out the whole stock, and thus secure to the people the full market value of the privileges granted? Why should not Congress create and sell the twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act, and putting the premium upon the sales into the treasury?

But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right, not only to the favor, but to the bounty of the Government. It appears that more than a fourth part of the stock is held by foreigners, and the residue is held by a few hundred of our citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from the competition in the purchase of this monopoly, and dispose of it for many millions less

cy of this course. If our Government must sell monopolies, it would seem to be its duty to take nothing less than their full value; and if gratuities must be made once in fifteen or twenty years, let them not be bestowed on the subjects of a foreign Government, nor upon a designated or favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow-citizens, and let each in his turn enjoy an opportunity to profit by our bounty. In the bearings of the act before me upon these points, I find ample reasons why it should not become a law.

It has been urged as an argument in favor of rechartering the present bank, that calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns is ample; and if it has been well managed, its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own, and it would furnish a reason against renewing a power which has been so obviously abused. But will there ever be a time when this reason will be less powerful? To acknowledge its force, is to admit that the bank ought to be perpetual, and, as a consequence, the present stockholders, and those inheriting their rights as successors, be established a privileged order, clothed both with great political power, and enjoying immense pecuniary advantages, from their connexion with the Government.

The modifications of the existing charter, proposed by this act, are not such, in my view, as make it consistent with the rights of the States, or the liberties of the people. The qualification of the right of the bank to hold real estate, the limitation of its power to establish branches, and the power reserved to Congress to forbid the circulation of small notes, are restrictions, comparatively of little value or importance. All the objectionable principles of the existing corporation, and most of its odious features, are retained without alleviation.

The fourth section provides "that the notes or bills of the said corporation, although the same be on the faces thereof respectively made payable at one place only, shall, nevertheless, be received by the said corporation at the bank, or at any of the offices of discount and deposit thereof, if tendered in liquidation or payment of any balance or balances due to said corporation, or to such office of discount and deposit, from any other incorporated bank."

This provision secures to the State banks a legal privilege in the Bank of the United States, which is withheld from all private citizens. If a State bank in Philadelphia owe the Bank of the United States, and have notes issued by the St. Louis branch, it can pay the debt with those notes; but if a merchant, mechanic, or other private citizen, be in like circumstances, he cannot, by law, pay his debt with those notes, but must sell them at a discount, or send them to St. Louis to be cashed. This boon, conceded to the State banks, though not unjust in itself, is most odious; because it does not measure out equal justice to the high and the low, the rich and the poor. To the extent of its practical effect, it is a bond of union among the banking establishments of the nation, erecting them into an interest separate from that of the people;

Although this provision, taken in connexion with a decision of the Supreme Court, surrenders, by its silence, the right of the States to tax the banking institutions created by this corporation, under the name of branches, throughout the Union, it is evidently intended to be construed as a concession of their right to tax that portion of the stock which may be held by their own citizens and residents. In this light, if the act becomes a law, it will be understood by the States, who will probably proceed to levy a tax equal to that paid upon the stock of banks incorporated by themselves. In some States that tax is now one per cent., either on the capital or on the shares; and that may be assumed as the amount which all citizens or resident stockholders would be taxed under the operation of this act. As it is only the stock held in the States, and not that employed within them, which would be subject to taxation, and as the names of foreign stockholders are not to be reported to the treasurers of the States, it is obvious that the stock held by them will be exempt from this burden. Their annual profits will, therefore, be increased one per cent. more than the citizen stockholders; and as the annual dividends of the bank may be safely estimated at seven per cent., the stock will be worth ten or fifteen per cent. more to foreigners than to citizens of the United States. To appreciate the effect which this state of things will produce, we must take a brief review of the operations and present condition of the Bank of the United States.

By documents submitted to Congress at the present session, it appears that, on the 1st of January, 1832, of the 28,000,000 of private stock in the corporation, 8,405,500 were held by foreigners, mostly of Great Britain. The amount of stock held in the nine Western States is 140,200 dollars; and in the four Southern States is 5,623,100 dollars; and in the Eastern and Middle States about 13,522,000 dollars. The profits of the bank in 1831, as shown in a statement to Congress, were about 3,455,598 dollars: of this there accrued in the nine Western States about 1,640,048 dollars; in the four Southern States about 352,507 dollars; and in the Middle and Eastern States about 1,463,041 dollars. As little stock is held in the West, it is obvious that the debt of the people in that section to the bank is principally a debt to the Eastern and foreign stockholders; that the interest they pay upon it is carried into the Eastern States and into Europe; and that it is a burden upon their industry, and a drain of their currency, which no country can bear without inconvenience and occasional distress. To meet this burden, and equalize the exchange operations of the bank, the amount of specie drawn from those States, through its branches, within the last two years, as shown by its official report, was about 6,000,000 dollars. More than half a million of this amount does not stop in the Eastern States, but passes on to Europe, to pay the dividends to the foreign stockholders. In the principle of taxation recognised by this act, the Western States had no adequate compensation for this perpetual burden on their industry, and drain upon their currency. The branch bank at Mobile made, last year, 95,140 dollars, yet, under the provisions of this act, the State of Alabama can raise no revenue from these profitable opera-

the Eastern as well as the Southern and Western States of the means of raising a revenue from the extension of business, and the great profits of this institution. It will make the American people debtors to aliens in nearly the whole amount due to this bank, and send across the Atlantic from two to five millions of specie every year, to pay the bank dividends.

In another of its bearings this provision is fraught with danger. Of the twenty-five directors of this bank, five are chosen by the Government, and twenty by the citizen stockholders. From all voice in these elections the foreign stockholders are excluded by the charter. In proportion, therefore, as the stock is transferred to foreign holders, the extent of suffrage in the choice of directors is curtailed. Already is almost a third of the stock in foreign hands, and not represented in elections. It is constantly passing out of the country, and this act will accelerate its departure. The entire control of the institution would necessarily fall into the hands of a few citizen stockholders, and the ease with which the object would be accomplished, would be a temptation to designing men to secure that control in their own hands, by monopolizing the remaining stock. There is danger that a president and directors would then be able to elect themselves from year to year, and, without responsibility or control, manage the whole concerns of the bank during the existence of the charter. It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people.

Is there no danger to our liberty and independence in a bank that, in its nature, has so little to bind it to our country? The president of the bank has told us that most of the State banks exist by its forbearance. Should its influence become concentrated, as it may under the operation of such an act as this in the hands of a self elected directory, whose interests are identified with those of the foreign stockholder, will there not be cause to tremble for the purity of our elections in peace, and for the independence of our country in war? Their power would be great whenever they might choose to exert it; but, if this monopoly were regularly renewed every fifteen or twenty years, on terms proposed by themselves, they might seldom in peace put forth their strength to influence elections or control the affairs of the nation. But if any private citizen or public functionary should interpose to curtail its powers, or prevent a renewal of its privileges, it cannot be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign Power, and managed by those whose interests, if not affections would run in the same direction, there can be no doubt. All its operations within would be in aid of the hostile fleets and armies without: controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

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stead of sending abroad the stock of the bank, in which the Government must deposit its funds, and on which it must rely to sustain its credit in times of emergency, it would rather seem to be expedient to prohibit its sale to aliens, under penalty of absolute forfeiture.

It is maintained by the advocates of the bank, that its constitutionality, in all its features, ought to be considered as settled by precedent, and by the decision of the Supreme Court. To this conclusion I cannot assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been, probably, to those in its favor, as four to one. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this Government. The Congress, the Executive, and the court, must each for itself be guided by its own opinion of the constitution. Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the supreme judges, when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But, in the case relied upon, the Supreme Court have not decided that all the features of this corporation are compatible with the constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress. But taking into view the whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Government, therefore the law incorporating it is in accordance with that provision of the constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying those powers into execution." Having satisfied themselves that the word "necessary," in the constitution, means "needful," "requisite," "essential," "conducive to," and that "a bank" is a convenient,

The principle, here affirmed, is, that the "degree of its necessity," involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional; but it is the province of the Legislature, to determine whether this or that particular power, privilege, or exemption, is "necessary and proper" to enable the bank to discharge its duties to the Government; and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are "necessary and proper," in order to enable the bank to perform, conveniently and efficiently, the public duties assigned to it as a fiscal agent, and therefore constitutional, or unnecessary and improper, and therefore unconstitutional.

Without commenting on the general principle affirmed by the Supreme Court, let us examine the details of this act in accordance with the rule of legislative action which they have laid down. It will be found that many of the powers and privileges conferred on it cannot be supposed necessary for the purpose for which it is proposed to be created, and are not, therefore, means necessary to attain the end in view, and consequently not justified by the constitution.

The original act of incorporation, section 21, enacts, "that no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged: Provided, Congress may renew existing charters for banks within the District of Columbia, not increasing the capital thereof, and may also establish any other bank or banks in said District, with capitals not exceeding, in the whole, six millions of dollars, if they shall deem it expedient." This provision is continued in force by the act before me, fifteen years from the 3d of March, 1836.

If Congress possesses the power to establish one bank, they had power to establish more than one, if, in their opinion, two or more banks had been "necessary" to facilitate the execution of the powers delegated to them by the constitution. If they possessed the powers to establish a second bank, it was a power derived from the constitution, to be exercised from time to time, and at any time when the interests of the country, or the emergencies of the Government might make it expedient. It was possessed by one Congress as well as another, and by all Congresses alike, and alike at every session. But the Congress of 1816 have taken it away from their successors for twenty years, and the Congress of 1832 proposes to abolish it for fifteen years more. It cannot be "necessary" or "proper" for Congress to barter away, or divest themselves of any of the powers vested in them by the constitution, to be exercised for the public good. It is not "necessary" to the efficiency of the bank, nor is it "proper" in relation to themselves and their successors. They may properly use the discretion vested in them, but they may not limit the discretion of their successors. This restriction on themselves, and grant of a monopoly to the bank, is therefore unconstitutional.

In another point of view, this provision is a palpable attempt to amend the constitution by an act of legislation.

sive legislation over this District, "in all cases whatsoever," and this act declares they shall not. Which is the supreme law of the land? This provision cannot be "necessary" or "proper" or "constitutional," unless the absurdity be admitted, that whenever it be "necessary and proper" in the opinion of Congress, they have a right to barter away one portion of the powers vested in them by the constitution as a means of executing the rest.

On two subjects only does the constitution recognize in Congress the power to grant exclusive privileges on monopolies. It declares that "Congress shall have power to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." Out of this express delegation of power, have grown our laws of patents and copyrights. As the constitution expressly delegates to Congress the power to grant exclusive privileges in these cases, as the means of executing the substantive power "to promote the progress of science and useful arts," it is consistent with the fair rules of construction to conclude that such a power was not intended to be granted as a means of accomplishing any other end. On every other subject which comes within the scope of congressional power, there is an ever-living discretion in the use of proper means, which cannot be restricted or abolished without an amendment of the constitution. Every act of Congress, therefore, which attempts, by grants of monopolies, or sale of exclusive privileges for a limited time, or a time without limit, to restrict or extinguish its own discretion in the choice of means to execute its delegated powers, is equivalent to a legislative amendment of the constitution, and palpably unconstitutional.

This act authorizes and encourages transfers of its stock to foreigners, and grants them an exemption from all State and national taxation. So far from being "necessary and proper" that the bank should possess this power, to make it a safe and efficient agent of the Government in its fiscal operations, it is calculated to convert the Bank of the United States into a foreign bank, to impoverish our people in time of peace, to disseminate a foreign influence through every section of the republic, and in war to endanger our independence.

The several States reserved the power, at the formation of the constitution, to regulate and control titles and transfers of real property; and most, if not all of them, have laws disqualifying aliens from acquiring or holding lands within their limits. But this act, in disregard of the undoubted right of the States to prescribe such disqualifications, gives to aliens, stockholders in this bank, an interest and title, as members of the corporation, to all the real property it may acquire within any of the States of this Union. This privilege granted to aliens is not "necessary" to enable the bank to perform its public duties, nor in any sense "proper," because it is vitally subversive of the rights of the States.

The Government of the United States have no constitutional power to purchase lands within the States, except "for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," and even for these objects only "by the consent of the Legislature."

to perform all the functions required of it by the Government. The capital of the present bank is thirty-five millions of dollars, at least twenty-four more than experience has proved to be necessary to enable a bank to perform its public functions. The public debt, which existed during the period of the old bank, and on the establishment of the new, has been nearly paid off, and our revenue will soon be reduced. This increase of capital is, therefore, not for public, but for private purposes.

The Government is the only "proper" judge where its agents should reside and keep their offices, because it best knows where their presence will be "necessary." It cannot, therefore, be "necessary" or "proper" to authorize the bank to locate branches where it pleases, to perform the public service, without consulting the Government, and contrary to its will. The principle laid down by the Supreme Court concedes that Congress cannot establish a bank for the purposes of private speculation and gain, but only as a means of executing the delegated powers of the General Government. By the same principle, a branch bank cannot constitutionally be established for other than public purposes. The power which this act gives to establish two branches in any State, without the injunction or request of the Government, and for other than public purposes, is not "necessary" to the due execution of the powers delegated to Congress.

The bonus which is exacted from the bank, is a confession, upon the face of the act, that the powers granted by it are greater than are "necessary" to its character as a fiscal agent. The Government does not tax its officers and agents for the privileges of serving it. The bonus of a million and a half, required by the original charter, and that of three millions proposed by this act, are not exacted for the privilege of giving "the necessary facilities for transferring the public funds from place to place, within the United States or the territories thereof, and for distributing the same in payment of the public creditors, without charging commission, or claiming allowance on account of the difference of exchange," as required by the act of incorporation, but for something more beneficial to the stockholders. The original act declares that it (the bonus) is granted "in consideration of the exclusive privileges and benefits conferred by this act upon the said bank;" and the act before me declares it to be "in consideration of the exclusive benefits and privileges continued by this act to the said corporation for fifteen years as aforesaid." It is, therefore, for "exclusive privileges and benefits," conferred for their own use and emolument, and not for the advantage of the Government, that a bonus is exacted. These surplus powers, for which the bank is required to pay, cannot be "necessary" to make it the fiscal agent of the treasury. If they were, the exaction of a bonus for them would not be "proper."

It is maintained by some that the bank is a means of executing the constitutional power "to coin money, and regulate the value thereof." Congress have established a mint to coin money, and passed laws to regulate the value thereof. The money so coined, with its value so regulated, and such foreign coins as Congress may adopt, are the only currency known to the constitution. But if they have other power to regulate the currency,

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carried on within their limits, in subversion of one of the strongest barriers which secured them against federal encroachments. Banking, like farming, manufacturing, or any other occupation or profession, is a business, the right to follow which is not originally derived from the laws. Every citizen, and every company of citizens, in all our States, possessed the right until the State Legislatures deemed it good policy to prohibit private banking by law. If the prohibitory State laws were now repealed, every citizen would again possess the right. The State banks are a qualified restoration of the right which has been taken away by the laws against banking, guarded by such provisions and limitations as, in the opinion of the State Legislatures, the public interest requires. These corporations, unless there be an exemption in their charter, are, like private bankers and banking companies, subject to State taxation. The manner in which these taxes shall be laid, depends wholly on legislative discretion. It may be upon the bank, upon the stock, upon the profits, or in any other mode which the sovereign power shall will.

Upon the formation of the constitution, the States guarded their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other object within their jurisdiction, whether persons, property, business, or professions, it was secured in as ample a manner as it was before possessed. All persons, though United States' officers, are liable to a poll tax by the States within which they reside; the lands of the United States are liable to the usual land tax, except in the new States, from whom agreements that they will not tax unsold lands, are exacted when they are admitted into the Union: horses, wagons, any beasts, or vehicles, tools, or property, belonging to private citizens, though employed in the service of the United States, are subject to State taxation. Every private business, whether carried on by an officer of the General Government, or not, whether it be mixed with public concerns or not, even if it be carried on by the Government of the United States itself, separately or in partnership, falls within the scope of the taxing power of the State. Nothing comes more fully within it than banks and the business of banking, by whomsoever instituted and carried on. Over this whole subject matter, it is just as absolute, unlimited, and uncontrollable, as if the constitution had never been adopted, because in the formation of that instrument it was reserved without qualification.

The principle is conceded, that the States cannot rightfully tax the operations of the General Government. They cannot tax the money of the Government deposited in the State banks, nor the agency of those banks in remitting it; but will any man maintain that their mere selection to perform this public service for the General Government, would exempt the State banks and their ordinary business from State taxation? Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principle, then, are the banking establishments of the Bank of the United States, and their usual banking operations, to be exempted from taxa-

the persons, property, and business, that are found residing, located, or carried on, under their jurisdiction, must the States, since the surrender of their right to raise a revenue from imports and exports, draw all the money necessary for the support of their Governments, and the maintenance of their independence. There is no more appropriate subject of taxation than banks, banking, and bank stocks, and none to which the States ought more pertinaciously to cling.

It cannot be necessary to the character of the bank, as a fiscal agent of the Government, that its private business should be exempted from the taxation to which all the State banks are liable. Nor can I conceive it "proper" that the substantive and most essential powers reserved by the States shall be thus attacked and annihilated as a means of executing the powers delegated to the General Government. It may be safely assumed that none of those sages who had an agency in forming or adopting our constitution, ever imagined that any portion of the taxing power of the States, not prohibited to them, nor delegated to Congress, was to be swept away and annihilated as a means of executing certain powers delegated to Congress.

If our power over means is so absolute, that the Supreme Court will not call in question the constitutionality of an act of Congress, the subject of which "is not prohibited, and is really calculated to effect any of the objects entrusted to the Government," although, as in the case before me, it takes away powers expressly granted to Congress, and rights scrupulously reserved to the States, it becomes us to proceed in our legislation with the utmost caution. Though not directly, our own powers, and the rights of the States, may be indirectly legislated away in the use of means to execute substantive powers. We may not enact that Congress shall not have the power of exclusive legislation over the District of Columbia, but we may pledge the faith of the United States, that, as a means of executing other powers, it shall not be exercised for twenty years, or forever. We may not pass an act prohibiting the States to tax the banking business carried on within their limits, but we may, as a means of executing our powers over other objects, place that business in the hands of our agents, and then declare it exempt from State taxation in their hands. Thus may our own powers and the rights of the States, which we cannot directly curtail or invade, be frittered away and extinguished in the use of means employed by us to execute other powers. That a Bank of the United States, competent to all duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the States, I do not entertain a doubt. Had the Executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. In the absence of such a call, it is obviously proper that he should confine himself to pointing out those prominent features in the ~~set~~ presented, which, in his opinion, make it incompatible with the constitution and sound policy. A general discussion will now take place, eliciting new light, and settling important principles; and a new Congress, elected in the midst of such discussion, and furnishing an equal representation of the people according to the last census, will bear to the